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PROVINCIAL STATUTES

OF

CANADA,

ENACTED by Her Most Excellent Majesty, our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth years of Her Majesty's Reign, intituled "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. III.



KINGSTON:

PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Anno Domini, 1843.

REIGN OF

CHARLES THE FIRST
BY
JOHN BURNET
OF
GLASGOW

1677



LONDON: Printed by J. Streater, at the Sign of the Gun, in St. Dunstons Church-yard, 1677.

THE SECOND EDITION

PROVINCIAL STATUTES

OF

CANADA.

ANNO REGNI SEPTIMO

VICTORIÆ,

DEI GRATIA, BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT HONORABLE

SIR CHARLES THEOPHILUS METCALFE, G. C. B.

GOVERNOR GENERAL.

Being the **THIRD** Session of the **FIRST** Provincial
Parliament of **CANADA**.



ANNO SEPTIMO

VICTORIÆ REGINÆ.

C A P. I.

An Act to impose duties on Agricultural Produce and Live Stock imported into this Province.

[16th November, 1843.]

WHEREAS, the present system of raising a Revenue by means of duties of Customs, has been complained of as unequal by the Agricultural Population of the Province, inasmuch as under it Agricultural Produce and Live Stock are in most cases entirely exempted from duty ; and whereas, as well with a view to remove such inequality, as for the purpose of increasing the Public Revenue, it is expedient to impose duties on Agricultural Produce and Live Stock imported into this Province ;—Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that there shall be raised, levied, collected and paid to Her Majesty, Her Heirs and Successors, upon Agricultural Produce and Live Stock, of the kinds and descriptions mentioned in the Schedule to this Act, imported into this Province, the several duties of Customs respectively inserted, described and set forth in words and figures in the Schedule aforesaid.

Preamble.

Certain duties imposed on Agricultural Produce and Live Stock.

II. Provided always, and be it enacted, that Agricultural Produce and Live Stock, imported by Sea for the use of the Fisheries of this Province, shall be free

Exemption in favor of the Fisheries.

free from the said duties, but subject to the regulations expressed and enacted with regard to certain articles specified in the eighth section of the Act of the Parliament of the United Kingdom, passed in the Session held in the fifth and sixth years of Her Majesty's Reign, and intituled *An Act to amend the Laws for the regulation of the Trade of the British Possessions abroad.*

Duties to be sterling money within the meaning of the Act 4 & 5 Vic. c. 93.

III. And be it enacted, that the sums set forth in figures in the Schedule to this Act, as the duties hereby imposed, shall be Sterling money, bearing that proportion in value to the currency of this Province, which is fixed by the Provincial Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled *An Act to regulate the Currency of this Province*, and shall be payable, according to such proportion, in any coin current under the said Act.

Under what Regulations the duties shall be levied.

IV. And be it enacted, that the duties imposed by this Act shall be levied and recovered according to the same weights and measures, and, in so far as may be consistent with the other provisions of this Act, under the same regulations, to be enforced and applied in the same manner, and with the same restrictions and provisions for ensuring the payment and punishing the evasion thereof, as the duties imposed in and by the said Act of the Parliament of the United Kingdom, intituled *An Act to amend the Laws for the regulation of the Trade of the British Possessions abroad.*

The Governor in Council may appoint warehousing Ports for the purposes of this Act; and Neat Cattle may, under certain regulations, be slaughtered, cured and packed in Bond.

V. And be it enacted, that it shall be lawful for the Governor of this Province, in Council, to appoint such Ports and Places to be Warehousing Ports for the purposes of this Act, as he shall deem advisable, and also to authorise the Collector of the Customs at each such Port, under such regulations as the Governor shall from time to time establish, to approve of any one or more Warehouses at such Port, as Warehouses for the purposes of this Act; and on the arrival of any Neat Cattle or Swine at such Port, it shall be lawful for the importer or owner of such Neat Cattle or Swine, either to pay the duty thereon, or to cause the same to be slaughtered and cured in Bond in some Warehouse so approved as aforesaid; and in the case last named, the importer or owner shall enter into a Bond to Her Majesty, Her Heirs and Successors, jointly and severally with two good and sufficient sureties to the satisfaction of the Collector, in a sum equal to twice the sum which would be payable as duty on such Cattle or Swine, with condition to cure and pack, and within sixty days to deliver to the Collector and to place in Bond under the Crown's Lock in some Warehouse to be approved as aforesaid, all the Beef or Pork (as the case may be) produced from such carcasses of such Cattle or Swine; and upon such security being given, it shall be lawful for the Collector to permit the said Cattle or Swine to be conveyed to the said Warehouse, (the same being first emptied of all meat being the produce of other Cattle or Swine) and there to be slaughtered and cut up, and the meat to be

be weighed, in the presence of such person or persons as the Collector shall appoint, and to cause such other precautions to be taken for guarding against any fraud upon the Revenue as may be authorised by the regulations aforesaid ; and upon the delivery of the said meat cured and packed, at the Warehouse as aforesaid, the Bond so given as aforesaid shall be cancelled, and such meat may then be warehoused, and may thereafter be taken out of the Warehouse, for consumption, exportation or otherwise, on the same terms and conditions, within the same time, and on payment of the same duties, and shall be dealt with in all respects in the same manner as if it had been imported into such Port so cured and packed, and had been then warehoused : Provided always, that all expenses incurred in carrying the provisions of this section into effect shall be paid by the importer or owner of the Cattle or Swine in relation to which they shall be incurred.

Proviso.

VI. And be it enacted, that it shall be lawful for the Governor of this Province, in Council, to cause the amount of any duties levied under this Act to be returned to the party who shall have paid the same, on proof to the satisfaction of the said Governor in Council, that such duties were levied on Cattle or other Live Stock imported for the purpose of fulfilling any contract with Her Majesty's Commissariat, entered into by the Importer before the first day of October one thousand eight hundred and forty-three, and that such Cattle or Live Stock, or the meat thereof, have been delivered in fulfilment of such contract to some person authorised to receive the same, on behalf of Her Majesty's Commissariat ; and the sum to be so returned, may be paid out of the Consolidated Revenue Fund of this Province.

The Governor in Council may, on satisfactory evidence, return the duties paid on Cattle imported for the purpose of fulfilling contracts made with Her Majesty's Commissariat before the 1st Oct. 1843.

VII. And be it enacted, that all monies arising from the duties imposed by this Act, and all monies arising from any fines, penalties or forfeitures incurred under the provisions thereof, and belonging to Her Majesty, shall be paid over by the officers or persons receiving the same, to the Receiver General of this Province, and shall make part of the Consolidated Revenue Fund thereof, and shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

Monies arising from this Act to form part of the Consolidated Revenue Fund of this Province.

VIII. And be it enacted, that so much of the Provincial Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and to consolidate the Laws relating to the Provincial Duties to be levied on Goods, Wares and Merchandize, imported into this Province*,—as imposes a duty on any article on which a duty is imposed by this Act, shall be and is hereby repealed.

Certain parts of 4 & 5 Vic. c. 14, repealed.

IX. And be it enacted, that this Act shall cease to be in force upon, from and after the fifth day of January one thousand eight hundred and forty-four.

Continuance of this Act.

SCHEDULE.

SCHEDULE.

Duties imposed by this Act.

	£	s.	d.
Horses, Mares or Geldings, each.....	1	10	0
Colts and Foals, under two years old each.....	0	15	0
Mules and Asses, each.....	0	5	0
Bulls, each.....	0	15	0
Unenumerated Neat Cattle, four years old, and upwards, each head.....	1	0	0
Unenumerated Neat Cattle, under four years old, each head.....	0	10	0
Calves, under one year old, each.....	0	5	0
Sheep, each.....	0	2	0
Lambs, each.....	0	1	0
Swine and Hogs, each.....	0	5	0
Goats and Kids, each.....	0	1	0
Poultry or Game, <i>ten per centum ad valorem</i> .			
Barley, per quarter.....	0	3	0
Rye, Peas, Beans, Maize or Indian Corn, Buck Wheat Bear or Bigg, per quarter.....	0	3	0
Oats, per quarter.....	0	2	0
Barley Meal, Wheat Meal, not being Wheat Flour, Oat- meal, Buck Wheat Meal, Rye Meal, and Indian Corn Meal, on each 196 lbs.....	0	2	0
Bran and Shorts, per cwt.....	0	0	3
Hay, per ton.....	0	6	0
Straw, per ton.....	0	3	0
Hops, per lb.....	0	0	3
Potatoes, per bushel.....	0	0	3
Vegetables unenumerated, <i>fifteen per centum, ad valorem</i> .			

PROVISIONS, VIZ :—

Bacon and Hams, cured, per cwt.....	0	5	0
Meat of all kinds, Fresh, per cwt.....	0	4	0
Ditto, Salted or Cured, per cwt.....	0	2	0
Butter, per cwt.....	0	2	0
Cheese, per cwt.....	0	2	6
Lard, per cwt.....	0	6	0
Eggs, <i>ten per centum ad valorem</i> .			

CAP. II.

An Act to continue for a limited time the duties imposed on Agricultural Produce and Live Stock imported into this Province.

[9th December, 1843.]

WHEREAS it is expedient to continue for a limited time the duties imposed on Agricultural Produce and Live Stock imported into this Province; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that there shall be raised, levied, collected and paid to Her Majesty, Her Heirs and Successors, upon Agricultural Produce and Live Stock, of the kinds and descriptions mentioned in the Schedule to this Act, imported into this Province, the several duties of customs respectively inserted, described and set forth in words and figures in the Schedule aforesaid.

Preamble.

Certain duties imposed on Agricultural Produce and Live Stock.

II. Provided always, and be it enacted, that Agricultural Produce and Live Stock, imported by Sea for the use of the Fisheries of this Province, shall be free from the said duties, but subject to the regulations expressed and enacted with regard to certain articles specified in the eighth section of the Act of the Parliament of the United Kingdom, passed in the Session held in the fifth and sixth years of Her Majesty's Reign, and intituled, *An Act to amend the Laws for the regulation of the Trade of the British Possessions abroad*.

Exemption in favor of the Fisheries.

III. And be it enacted, that the sums set forth in figures in the Schedule to this Act, as the duties hereby imposed, shall be Sterling money, bearing that proportion in value to the Currency of this Province, which is fixed by the Provincial Act passed in the Session held in the fourth and fifth years of Her Majesty's reign, and intituled, *An Act to regulate the Currency of this Province*, and shall be payable, according to such proportion, in any coin current under the said Act.

Duties to be sterling money within the meaning of the Act 4 & 5 Vic. c. 93.

IV. And be it enacted, that the duties imposed by this Act shall be levied and recovered according to the same weights and measures, and, in so far as may be consistent with the other provisions of this Act, under the same regulations to be enforced and applied in the same manner, and with the same restrictions and provisions, for ensuring the payment and punishing the evasion thereof, as the duties

Under what Regulations the Duties shall be levied.

duties imposed in and by the said Act of the Parliament of the United Kingdom, intituled, *An Act to amend the laws for the regulation of the Trade of the British Possessions abroad.*

The Governor in Council may appoint warehousing Ports for the purposes of this Act; and Neat Cattle may, under certain regulations, be slaughtered, cured and packed in Bond.

V. And be it enacted, that it shall be lawful for the Governor of this Province, in Council, to appoint such Ports and Places to be Warehousing Ports for the purposes of this Act, as he shall deem advisable, and also to authorize the Collector of the Customs at each such Port, under such regulations as the Governor shall from time to time establish, to approve of any one or more Warehouses at such Port, as Warehouses for the purposes of this Act; and on the arrival of any Neat Cattle or Swine at such Port, it shall be lawful for the importer or owner of such Neat Cattle or Swine, either to pay the duty thereon or cause the same to be slaughtered and cured in Bond in some Warehouse so approved as aforesaid; and in the case last named, the importer or owner shall enter into a Bond to Her Majesty, Her Heirs and Successors, jointly and severally with two good and sufficient sureties to the satisfaction of the Collector, in a sum equal to twice the sum which would be payable as duty on such Cattle or Swine, with condition to cure and pack, and within sixty days to deliver to the Collector and to place in Bond under the Crown's Lock in some Warehouse to be approved as aforesaid, all the Beef or Pork (as the case may be) produced from the carcasses of such Cattle or Swine; and upon such security being given, it shall be lawful for the Collector to permit the said Cattle or Swine to be conveyed to the said Warehouse, and there to be slaughtered and cut up, and the meat to be weighed, in the presence of such person or persons as the Collector shall appoint, and to cause such other precautions to be taken for guarding against any fraud upon the Revenue as may be authorized by the regulations aforesaid; and upon the delivery of the said meat cured and packed, at the Warehouse as aforesaid, the Bond so given as aforesaid shall be cancelled, and such meat may then be warehoused, and may thereafter be taken out of the Warehouse, for consumption, exportation or otherwise, on the same terms and conditions, within the same time, and on payment of the same duties, and shall be dealt with in all respects, (except always as to any certificate which may be required of its having been slaughtered, cured and packed in this Province,) in the same manner as if it had been imported into such Port so cured and packed, and had been then warehoused: Provided always, that all expenses incurred in carrying the provisions of this section into effect shall be paid by the importer or owner of the Cattle or Swine, in relation to which they shall be incurred.

The Governor in Council may on satisfactory evidence,

VI. And be it enacted, that it shall be lawful for the Governor of this Province, in Council, to cause the amount of any duties levied under this Act to be returned to the party who shall have paid the same, on proof to the satisfaction of

of the said Governor in Council, that such duties were levied on Cattle or other Live Stock imported for the purpose of fulfilling any contract with Her Majesty's Commissariat, entered into by the Importer before the first day of October, one thousand eight hundred and forty-three, and that such Cattle or Live Stock or the meat thereof have been delivered in fulfilment of such contract to some person authorised to receive the same, on behalf of Her Majesty's Commissariat; and the sum to be so returned, may be paid out of the Consolidated Revenue Fund of this Province.

return the duties paid on Cattle imported for the purpose of fulfilling contracts made with Her Majesty's Commissariat before the 1st. Oct. 1843.

VII. And be it enacted, that all monies arising from the duties imposed by this Act, and all monies arising from any fines, penalties or forfeitures incurred under the provisions thereof, and belonging to Her Majesty, shall be paid over by the officers or persons receiving the same, to the Receiver General of this Province, and shall make part of the Consolidated Revenue Fund thereof, and shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

Monies arising from this Act to form part of the Consolidated Revenue Fund of this Province.

VIII. And be it enacted, that so much of the Provincial Act, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and to consolidate the Laws relating to the Provincial Duties to be levied on Goods, Wares and Merchandize, imported into this Province*, as imposes a duty on any article on which a duty is imposed by this Act, shall be and is hereby repealed.

Certain parts of 4 & 5 Vic. c. 14. repealed.

IX. And be it enacted, that this Act shall come into operation upon the fifth day of January, one thousand eight hundred and forty-four, and shall cease to be in force upon, from and after the fifth day of January, one thousand eight hundred and forty-five.

Commencement and limitation of this Act.

SCHEDULE.

Duties imposed by this Act.

	£	s.	d.
Horses, Mares or Geldings, each.....	1	10	0
Colts and Foals, under two years old, each.....	0	15	0
Mules and Asses, each.....	0	5	0
Bulls, each.....	0	15	0
Unenumerated Neat Cattle, four years old, and upwards, each head.....	1	0	0
	Unenumerated		

Unenumerated Neat Cattle, under four years old, each head.	0	10	0
Calves under one year old, each.....	0	5	0
Sheep, each.....	0	2	0
Lambs, each.....	0	1	0
Swine and Hogs, each.....	0	5	0
Goats and Kids, each.....	0	1	0
Poultry or Game, <i>ten per centum, ad valorem.</i>			
Barley, per quarter.....	0	3	0
Rye, Peas, Beans, Maize or Indian Corn, Buck Wheat			
Bear or Bigg, per quarter.....	0	3	0
Oats, per quarter.....	0	2	0
Barley Meal, Wheat Meal, not being Wheat Flour, Oat-			
meal, Buck Wheat Meal, Rye Meal, and Indian Corn			
Meal, on each 196 lbs.....	0	2	0
Bran and Shorts, per cwt.....	0	0	3
Hay, per ton.....	0	6	0
Straw, per ton.....	0	3	0
Hops, per lb.....	0	0	3
Potatoes, per bushel.....	0	0	3
Vegetables unenumerated, <i>fifteen per centum, ad valorem.</i>			

PROVISIONS, VIZ :—

Bacon and Hams, cured, per cwt.....	0	5	0
Meat of all kinds, Fresh, per cwt.....	0	4	0
Do do Salted or Cured, per cwt.....	0	2	0
Butter, per cwt.....	0	2	0
Cheese, per cwt.....	0	2	6
Lard, per cwt.....	0	6	0
Eggs, <i>ten per centum, ad valorem.</i>			

C A P. III.

An Act for continuing the Provincial Parliament in case of the demise of the Crown.

[16th November, 1843.]

Preamble.

WHEREAS the peace, welfare and security of this Province might be exposed to great dangers, if the Provincial Parliament of this Province should be dissolved by the demise of Our Sovereign Lady, Queen Victoria, (whom God long preserve) or by the demise of any of Her Majesty's Heirs and Successors ;

Successors; for remedy thereof; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that after this Provincial Parliament, no Provincial Parliament of this Province, which shall have been summoned or called by Our Sovereign Lady Queen Victoria, or Her Heirs and Successors, shall determine or be dissolved by the demise of the Crown, but such Provincial Parliament shall continue, and may meet, convene and sit, proceed and act, notwithstanding such demise of the Crown, in the same manner as if such demise had not happened.

Provincial
Parliament to
continue not-
withstanding
the demise of
the Crown.

II. Provided always, and it is hereby enacted, that nothing in this Act contained shall extend or be construed to extend, to alter or abridge the power of Her Majesty the Queen, Her Heirs and Successors, to prorogue or dissolve the Provincial Parliament of this Province.

Proviso—
Rights of the
Crown saved.

C A P . IV.

An Act to facilitate the proof of the Laws of Upper and Lower Canada, and to declare Protests of Notaries Public Evidence, in certain cases, in Upper Canada,

[9th December, 1843.]

FOR the better and more effectual proof of the Statute Law of the Province of Canada, and of Upper and Lower Canada, previous to the Union of the said Provinces, in all Courts of Civil and Criminal Jurisdiction in every part of the said United Province; Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the copy of the Statutes and Ordinances of the late Province of Lower Canada, printed and published by the Printer duly authorized to print and publish the same by Her Majesty, or by any of Her Royal Predecessors, shall be received as conclusive evidence of the several Statutes made and enacted

Preamble.

Copy of the
Laws of Lower
Canada
printed by au-
thority to be
evidence in
Upper Cana-
da.

Copy of the
Laws of Upper
Canada printed
by authority
to be evidence
in Lower
Canada.

enacted prior to the Union of the Provinces of Upper and Lower Canada, by the Legislature of the Province of Lower Canada, and of the tenor of such Statutes and Ordinances, in all suits, actions or prosecutions respectively, commenced, instituted, or carried on, or to be commenced, instituted or carried on in any Court of Civil or Criminal Jurisdiction, in that part of the Province of Canada called Upper Canada; and in like manner the copy of the Statutes of the late Province of Upper Canada, printed and published by the Printer duly authorized by Her Majesty, or by any of Her Royal Predecessors, to print and publish the same, shall be received as conclusive evidence of the several Statutes made and enacted by the Legislature of the said Province of Upper Canada, prior to the Union of the said Provinces of Upper and Lower Canada, and of the tenor of such Statutes in all suits, actions or prosecutions respectively, commenced, instituted, or carried on, or to be commenced, instituted, or carried on, in any Court of Civil or Criminal Jurisdiction, in that part of the Province of Canada called Lower Canada.

Certificates
of Notaries to
be presumptive
evidence in
certain cases in
Upper Canada.

II. And be it enacted, that any note, memorandum or certificate, made or to be made by one or more Notaries Public, either in Upper or in Lower Canada, in his own hand writing, or signed by him at the foot of, or embodied in any Protest, or in a regular Register of Official Acts kept by him, shall be presumptive evidence in that part of the Province of Canada formerly called Upper Canada of the fact of any notice of non-acceptance or non-payment of any promissory Note or Bill of Exchange having been sent or delivered, at the time and in the manner stated in such note, certificate or memorandum.

Production
of Protest to
be presumptive
evidence that
a Protest was
made.

III. And be it enacted, that from and after the passing of this Act, the production of any Protest on any promissory Note or Bill of Exchange, under the hand and seal of any one or more Notaries Public, either in Upper or in Lower Canada, in any Court in that part of this Province formerly called Upper Canada, shall be presumptive evidence of the making of such Protest.

C A P . V .

An Act to regulate and facilitate the study of Anatomy.

[9th December, 1843.]

Preamble.

WHEREAS it is impossible to acquire a proper or sufficient knowledge of Surgery or Medecine, without a minute and practical acquaintance with the structure and uses of every portion of the human economy, which requires long

long and diligently prosecuted courses of dissections : And whereas the difficulties which now impede the acquisition of such knowledge amount almost to a prohibition of the same, and it has become necessary, in consideration of the rising importance of Medical Schools in this Province, and for the relief of suffering humanity, to make some legislative provision, by which duly authorized teachers of Anatomy or Surgery may be provided with the bodies necessary for the purpose of instructing the pupils under their charge ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the bodies of persons found dead publicly exposed, or who immediately before their death shall have been supported in and by any Public Institution receiving pecuniary aid from the Provincial Government, shall be delivered to persons qualified as hereinafter mentioned, unless the person so dying shall otherwise direct : provided always, that if such bodies be claimed within the usual period for interment, by *bonâ fide* friends or relatives, or the persons shall have otherwise directed as aforesaid before their death, they shall be delivered to them or decently interred.

Certain bodies may be delivered for dissection.

Proviso.

II. And be it enacted, that the persons qualified to receive such unclaimed bodies shall be public teachers of Anatomy or Surgery, or private Medical Practitioners having three or more pupils for whose instruction such bodies shall be actually required : Provided always, that if there be any Public Medical School in the locality, such School shall have a preferable claim to any such body.

To whom such bodies shall be delivered.

Proviso.

III. And be it enacted, that it shall be lawful for the Governor or person administering the Government of this Province to appoint, during pleasure, a person not being a Medical Practitioner, but being a person holding some Municipal Office and unconnected with any public or private School of Medecine, to be The Inspector of Anatomy, for each City, Town or Place in which there shall be any such Public Institution or Medical School, as aforesaid.

Governor to appoint Inspectors of Anatomy in certain places.

IV. And be it enacted, that the duties of each Inspector of Anatomy, shall be as follows : He shall keep a Register of the name, age, sex (and of the birth-place, if it can be ascertained) of all unclaimed bodies given up for dissection : he shall keep a Register of all Medical practitioners duly qualified to receive and desirous of receiving bodies for dissection : he shall make an impartial distribution of the bodies in rotation, according to the actual wants of the claimants : he shall inspect the several authorized dissection rooms, at least once in every six weeks, and shall

Duties of such Inspectors of Anatomy.

shall direct the removal and decent interment of any remains that he may deem it advisable to require to be interred ; and shall report to the Police Magistrate or the Chief Municipal authority, any infraction of the rules of common decency, or any improper conduct which he may know to be committed by the teachers or their students : he shall keep his Registers open for the inspection of any Medical Practitioner, who may desire to inspect them.

Coroner to give notice of bodies found exposed.

V. And be it enacted, that the Coroner who may preside at the inquest on any body found publicly exposed, and unclaimed by any *bonâ fide* friend or relative, shall give notice thereof to the Inspector of Anatomy of the locality, if there be any, failing which, he shall cause the body to be interred, as hath been heretofore customary.

Superintendents of public institutions to give notice of deaths in the same.

VI. And be it enacted, that the Superintendent of each public institution receiving Government aid, shall immediately give notice to the Inspector of Anatomy for the locality, of the death of any inmate of the Institution who shall not be known to have any friends or relatives entitled to claim the body.

Register to be kept by such Superintendents.

VII. And be it enacted, that each such Superintendent shall keep a Register shewing the name, age, sex and birth place (if known) of each person whose body shall be given over for dissection, and the name of the Medical Practitioner to whom such body shall have been delivered ; and that no such Superintendent shall deliver any body, except upon the written order of the Inspector of Anatomy for the locality.

Emoluments of the Inspectors of Anatomy.

VIII. And be it enacted, that the emoluments of the Inspector of Anatomy shall be as follows : he shall receive One pound five shillings, currency, for every body delivered over for dissection, which sum shall be paid him by the Teacher or Medical Practitioner, on receipt of the order for its delivery.

Medical Practitioners availing themselves of this Act to give security.

IX. And be it enacted, that every Medical Practitioner wishing to avail himself of the benefits of this Act, shall appear before one of Her Majesty's Justices of the Peace and the Inspector of Anatomy, and shall give security, himself in the sum of twenty pounds with two good and sufficient sureties, in the sum of ten pounds each, for the decent interment of the bodies after they shall have served the purposes required : and upon the due fulfilment of these conditions, the Inspector of Anatomy shall deliver to such Medical Practitioner a written authority to open a dissecting room entitled to the benefits of this Act.

CAP. VI.

An Act to restrain Party Processions in certain cases.

[9th December, 1843.]

WHEREAS divers persons in considerable numbers distinguished by ribbons, favors and other emblems expressive of party feelings, are in the practice of meeting and marching in procession in different parts of this Province, upon certain Festivals, Anniversaries and other occasions in celebration of certain Political Events ; and whereas such celebrations under whatever pretence held, are found to give great offence to large portions of Her Majesty's faithful subjects, and to occasion heats and perpetuate animosities, injurious to social order and dangerous to the Public Peace, and it is therefore expedient entirely to prohibit the same ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that any body of persons who shall meet and parade together, or join in procession for any such purpose, and any body of persons who shall march or parade together or join in procession, for the purpose of celebrating or commemorating any Festival, Anniversary, or Political Event, relating to or connected with any religious or other distinctions or differences, between any classes of Her Majesty's subjects, or of demonstrating any such religious or other distinctions or differences, and who shall bear, wear or have amongst them, any fire arms or other offensive weapons, or any Banner, Emblem, Flag or Symbol, the display whereof shall be calculated or shall tend to provoke animosity between Her Majesty's Subjects of different religious persuasions, or who shall be accompanied by any music of a like nature or tendency, shall be and be deemed an unlawful assembly, and every person present thereat shall be and be deemed to be guilty of a misdemeanor, and shall, upon conviction thereof, be liable to be punished by fine and imprisonment or either, at the discretion of the Court, whose duty it shall be to pass the sentence of the law upon such person upon his conviction.

Preamble.

Certain Processions declared unlawful.

II. And be it enacted, that any Justice or Justices of the Peace shall and may proceed, with such assistance as may be necessary, to the place where any procession or meeting of persons hereby declared to be unlawful shall be held or take place, and such Justices or one of such Justices, or some other person by their or his order, shall then and there read or repeat aloud to the persons so assembled, a command

Justices may command such to disperse.

command or notice to disperse, in the words or to the effect set forth in the Schedule to this Act annexed, marked A.

Persons remaining a certain time after such command to be guilty of Misdemeanor, and may be proceeded against summarily.

III. And be it enacted, that the persons so met and assembled together, shall upon such command or notice so given, forthwith disperse and depart; and in case any of such persons so met or assembled together as aforesaid, shall not disperse and depart in compliance with such command or notice, it shall be lawful for the Justice or Justices who shall have read such command or notice or caused the same to have been read as aforesaid, or any other Justice or Justices of the Peace, to cause the persons so refusing or neglecting to disperse or depart or any of them, to be apprehended by a Warrant for that purpose, to be signed by him or them, and such offender or offenders shall thereupon be proceeded against in a summary way for such offence, either by the Justice who shall have issued such Warrant, who may convict the party so offending, upon his own view of such offence, or before any two Justices of the Peace before whom he or they may be brought, who are hereby authorised to hear and determine the said complaint, and every person being convicted thereof, either on view as aforesaid, or on the oath of one or more credible witness or witnesses, shall be committed to the Common Gaol of the District, County or City in which the offence shall be committed, for the term of one Calendar month, and until the necessary costs of such conviction shall be paid: Provided always that nothing herein contained shall extend or be construed to extend to limit or in any way interfere with the power now vested by law in the Justices of the Peace, or any other peace officer, to call in the aid of a military or other force in any case, in which the same might be lawfully done, had this Act not been passed.

Any persons convicted and sentenced to be imprisoned for more than 24 hours may appeal to the next Quarter Sessions.

Proviso—party convicted to give notice of appeal.

Party to remain in custody or give security.

IV. And be it enacted, that any person who shall be summarily convicted under the last preceding section of this Act, and committed to prison in execution thereupon, for a longer period than twenty four hours, may appeal from and against such conviction to the next Court of General Quarter Sessions of the Peace, which shall be holden not less than twelve days after the day of such conviction for the District, County, City or Place wherein the offence shall be charged to have been committed: Provided always, Firstly, that every such person shall give to the Justice or Justices, who shall have so convicted him, a notice in writing of such appeal and of the cause and matter thereof within three days after such conviction, and seven days at least before such Sessions. And provided always, Secondly, that every such person shall either remain in custody until such appeal shall have been disposed of, or enter into a recognizance with two sufficient sureties before a Justice of the Peace, conditioned personally to appear at the said Sessions, and to try such appeal and to abide the Judgment of the Court thereupon, and to pay such costs as shall by the Court be awarded thereupon, and in the

the mean time to keep the peace and be of good behaviour towards all Her Majesty's subjects. And provided always, Thirdly, that upon such notice being given and such recognizance entered into, the Justice before whom the same shall be entered into shall liberate such person, if in custody. And provided also, Fourthly, that the Court at such Sessions shall hear and determine the matter of the appeal, and in case of the dismissal of the appeal or the affirmance of the conviction, shall order and adjudge the offender to be punished according to such conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment.

Party giving security to be liberated.

Quarter Sessions to determine such appeal.

V. And be it enacted, that whenever an appeal shall be made in any such case, the Court of Quarter Sessions shall have power to empanel a Jury to try the matter on which such decision may have been made, and to administer to such Jury the following oath, that is to say,—“ You do solemnly swear “ that you will well and truly try the matter of the conviction of A.B., before C. “ D., against which the said A.B., has appealed to this Court, and a true verdict “ give according to the evidence—So help you God.” And the Court on the finding of such Jury shall thereupon give such judgment as the circumstances of the case may require.

Quarter Sessions to empanel a Jury to try such decision.

Oath to be taken by the Jury.

Court on conviction to pronounce judgment.

VI. And be it enacted, that nothing in this Act contained, shall apply or extend to any religious procession of the Clergy or Laity of any Church or other religious community or persuasion, which shall take place in the course of public worship, or in the celebration of any religious rite enjoined or ordered by any such Church or other religious community or persuasion, or in compliance with the usage or discipline thereof, and which shall be accompanied by the Clergy or Ministers of such Church or other religious community or persuasion, any thing herein contained to the contrary notwithstanding.

Act not to extend to certain Religious Processions.

VII. And be it enacted, that every action to be brought against any person for any thing by him done under authority of this Act, shall be brought within twelve Calendar months next after the cause of such action accrued, and in default thereof the lapse of such twelve Calendar months shall be a good defence to such action.

Actions for any thing under this Act to be brought within twelve months.

VIII. And be it enacted, that this Act shall be publicly read aloud at full length in open Court by the Clerk of the Peace or his Deputy, or other similar officer of the Court, on the first day of every General Quarter Sessions of the Peace, that shall be held for any District, County, City or Town in this Province, within the two years next after the passing thereof.

Act to be read at Quarter Sessions for two years.

SCHEDULE.

SCHEDULE A.

Command to Disperse.

Command to
Disperse.

Our Sovereign Lady the Queen doth strictly charge and command all manner of persons being here assembled, immediately to disperse themselves, and peaceably to depart upon the pains contained in the Act of Parliament of (*here insert the year and chapter of this Act,*) intituled *An Act to restrain Party Processions in certain cases.*

C A P . VII.

An Act to provide for the calling and orderly holding of Public Meetings in this Province, and for the better preservation of the public peace thereat.

[9th December, 1843.]

Preamble.

Meetings re-
quired by Law,
to be within
protection of
this Act.

WHEREAS it is the undoubted right of Her Majesty's Subjects to meet together in a peaceable and orderly manner, not only when required to do so in compliance with the express direction of law, but at such other times as they may deem it expedient so to meet for the consideration and discussion of matters of public interest, or for making known to their Gracious Sovereign or Her Representative in this Province, or to both or either Houses of Her Imperial or Provincial Parliaments, their views respecting the same, whether such be in approbation or condemnation of the conduct of public affairs: And whereas, from the collisions and breaches of the Peace which have of late unhappily taken place at many of such Meetings, it is expedient to make some Legislative provision for the calling and orderly holding thereof, and the better preservation of the public peace at the same; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that all Public Meetings of the Inhabitants, or of any particular class of the Inhabitants of any District, County, Riding, City, Town, Township, Ward or Parish in this Province, which are or shall be required by law, and summoned or called in the manner hereinafter by the Fourth section of this Act prescribed, shall be and be deemed to be Public Meetings, within the meaning of this Act.

II. And be it enacted, that all Public Meetings, of the Inhabitants, or of any particular class of the Inhabitants of any District, County, Riding, City, Town, Township, Ward or Parish in this Province, called by the High Sheriff of any such District or County, or by the Mayor or other Chief Municipal Officer of any such City or Town respectively, in the manner hereinafter by the Fifth section of this Act prescribed, upon the requisition of any twelve or more of the Freeholders, Citizens or Burgesses of such District, County, Riding, Town, Township, Ward or Parish, having a right to vote for Members to serve in the Provincial Parliament, in respect of the property held by them within such District, County, Riding, City, Town, Township, Ward or Parish respectively, and all such Meetings called by any two or more Justices of the Peace, resident in any such District, County, Riding, City, Town, Township, Ward or Parish respectively, upon a like requisition from twelve or more of such Freeholders, Citizens or Burgesses, shall be and be deemed to be Public Meetings, within the meaning of this Act.

Meetings called by Sheriff or two Magistrates to be within protection of this Act.

III. And be it enacted, that all Public Meetings of the Inhabitants, or of any particular class of the Inhabitants of any District, County, Riding, City, Town, Township, Ward or Parish in this Province, which shall be declared to be Public Meetings within the meaning of this Act, by any two Justices of the Peace resident in such District, County, Riding, City, Town, Township, Ward or Parish, in the manner hereinafter by the Sixth section of this Act prescribed, shall be and be deemed to be Public Meetings, within the meaning of this Act.

Meetings declared by two Magistrates to be within the protection of the Act to be so.

IV. And be it enacted, that in every notice or summons for calling together any such Public Meeting, as in the First section of this Act is mentioned, there shall be contained a notice that such Meeting, and all persons attending the same, will be within the protection of this Act, and requiring all persons to take notice thereof and govern themselves accordingly, and which part of such notice or summons may be in the form or to the effect set forth in the Schedule to this Act annexed, marked A.

Manner of bringing meetings required by Law within protection of this Act.

V. And be it enacted, that the notice to be issued by the High Sheriff of any District or County, or by the Mayor or other Chief Municipal Officer of any City or Town, or by two or more Justices of the Peace, for calling any such Public Meeting, as in the Second section of this Act is mentioned, shall be issued at least three days previous to the day upon which such Meeting shall be appointed to be held, shall set forth the names of the requisitionists, or of a competent number of them, that such Meeting is called in conformity with the provisions of this Act, and that such meeting, and all persons attending the same, will be within the protection of this Act, and that all persons are required to take notice thereof and govern themselves accordingly, and such notice may be in the form or to the effect set forth in the Schedule to this Act annexed, marked B.

Manner of bringing meetings called by Sheriffs, &c. within the protection of this Act.

Manner of
bringing meet-
ings called by
private per-
sons within
protection of
Act.

VI. And be it enacted, that upon information on oath, before any Justice of the Peace, that any Public Meeting of the Inhabitants, or of any particular class of the Inhabitants of any District, County, Riding, City, Town, Township, Ward or Parish, not being a Public Meeting of the description mentioned in the First section of this Act, or a Public Meeting called in the manner referred to in the Second section of this Act, is appointed to be held at any place within the Jurisdiction of such Justice, and that there is reason to believe that great numbers of persons will be present at such meeting, it shall and may be lawful for any two Justices of the Peace, having jurisdiction within the District, County, City or Town, within which such Meeting is appointed to be held, to give notice of such Meeting, and to declare the same, and all persons attending the same, within the protection of this Act, and requiring all persons to take notice thereof and govern themselves accordingly, and which notice or declaration may be in the form or to the effect set forth in the Schedule to this Act annexed, marked C.

Sheriff and
Justices calling
meetings on re-
quisition to
give certain no-
tices.

VII. And be it enacted, that it shall be the duty of every Sheriff, Mayor, Justice of the Peace, or other person who shall call any such Public Meeting as those in the Second section of this Act mentioned, to give public notice thereof, as extensively as he reasonably may, by causing to be posted and distributed throughout the District, County, Riding, City, Town, Township, Ward or Parish, for which the same shall be called, a competent number of printed or written copies of the notice calling the same.

Justices de-
claring meet-
ings to be with-
in protection of
Act to give
certain notices.

VIII. And be it enacted, that it shall be the duty of the Justices of the Peace who shall declare any Public Meeting, about to be held, to be a Public Meeting within the protection of this Act, as in the Third Section of this Act mentioned, to give public notice of its having been so declared, by causing to be posted and distributed throughout the District, County, Riding, City, Town, Township, Ward or Parish, for which the same shall have been so called, as many printed or written copies of the notice or declaration issued by them in that behalf, as may be reasonably necessary for that purpose, and as the time appointed for the holding such Meeting shall reasonably admit.

Sheriffs and
Justices calling
and declaring
meetings un-
der this Act to
attend same.

IX. And be it enacted, that it shall be the duty of every Sheriff, Mayor, Justice of the Peace, or other person who shall either call any Public Meeting under the provisions of the Second Section of this Act, or declare any Meeting called by others, to be a Public Meeting within the protection of this Act, under the provisions of the Third Section of this Act, to attend every such Public Meeting respectively, and whether any such Sheriff, Mayor, Justice of the Peace, or other person shall be appointed by such Public Meeting to take the Chair and preside over the same, or not, it shall be the duty of every such Sheriff, Mayor, Justice of the

the Peace, and other person to continue at or near the place appointed for holding such Public Meeting, until the same shall have dispersed, and to afford all such assistance as may be in his power, in preserving the public peace thereat.

X. And be it enacted, that it shall be the duty of every person who shall be required by Law, or who shall have been appointed at such Public Meeting in the usual way, to preside over the same, to commence the proceedings of such Meeting by causing the Summons or notice calling such Meeting, or the Declaration whereby the same is declared to be a Public Meeting, under the protection of this Act, to be publicly read.

Chairman
to read re-
quisition and
make procla-
mation for the
preservation of
order.

XI. And be it enacted, that it shall be lawful for any person required by law, or who shall have been appointed at such Meeting in the usual way, to preside over the same, to cause order to be kept at such Meetings, and for that purpose by oral direction, or otherwise, to cause any person, who may attempt to interrupt or disturb such Meeting, to be removed to such a distance from the same as may effectually prevent such interruption or disturbance, and by an instrument in writing under his hand, on his own view, to adjudge any person who shall so attempt to interrupt or disturb such Meeting, to be guilty of such attempted interruption or disturbance, upon which conviction, it shall be lawful for any Justice of the Peace, by Warrant under his hand, forthwith to commit such person to the Common Gaol of the District, or to any other place of temporary confinement that such Justice may appoint for any period not exceeding forty-eight hours from the time of such commitment signed, and until the lawful costs of the Constable and Gaoler for the arrest, transmission and detention of such person shall be paid or satisfied.

Chairman
to remove
disorderly per-
sons and con-
vict on view of
disturbance.

XII. And be it enacted, that for the purpose of keeping the peace and preserving good order at every such Public Meeting, it shall and may be lawful for the person so required, or appointed to preside at any such Meeting, to command the assistance of all Justices of the Peace, Constables, and other persons to aid and assist him in so doing.

Chairman
to call on
Justices of the
Peace for as-
sistance.

XIII. And be it enacted, that it shall be the duty of any Justice of the Peace, present at any such Meeting, upon the written application of the person so required or appointed to preside at the same, to swear in such a number of Special Constables, as such Justice may deem necessary for the preservation of the public peace at such Meeting.

Justices to
swear in Spe-
cial Constables
on requi-
sition of Chair-
man.

XIV. And be it enacted, that if any person between the ages of eighteen and sixty, upon being required to be sworn in as a Special Constable, by any Justice

Persons re-
fusing to be
sworn in guilty
of a misde-
meanor.

of the Peace, upon any such occasion, shall omit or refuse to be so sworn, unless for some cause to be allowed by such Justice at the time, such person shall be guilty of a Misdemeanor, and it shall be lawful for such Justice thereupon, to record the refusal of such person so to be sworn, and to adjudge him to pay a fine of not more than forty shillings, which fine shall be levied and made by the like process as other fines imposed, by summary proceedings before Justices of the Peace, or such person may be proceeded against by Indictment or Information, as in other cases of Misdemeanor.

Justices of
the Peace may
disarm persons

XV. And be it enacted, that it shall and may be lawful for any Justice of the Peace, within whose Jurisdiction any such Meeting shall be appointed to be holden, to demand, have and take of and from any person attending such Meeting, or on his way to attend the same, any offensive weapon, such as fire arms, swords, staves, bludgeons, or the like with which any such person shall be so armed, or which any such person shall have in his hands or possession, and every such person who, upon such demand, shall decline or refuse to deliver up, peaceably and quietly, to such Justice of the Peace, any such offensive weapon as aforesaid, shall be deemed guilty of a Misdemeanor, and it shall be lawful for such Justice thereupon to record the refusal of such person to deliver up such weapon, and to adjudge him to pay a fine of not more than forty shillings, which fine shall be levied and made by the like process as other fines imposed by summary proceedings before Justices of the Peace, or such person may be proceeded against by Indictment or Information, as in other cases of Misdemeanor : Provided always, that such conviction shall not interfere with the power of such Justice or any other Justice, to take such weapon or cause the same to be taken from such person without his consent, and against his will by such force as shall be necessary for that purpose.

Certain arms
to be restored
to parties in
certain cases.

XVI. And be it enacted, that upon reasonable request to any Justice of the Peace, to whom any such weapon shall have been peaceably and quietly delivered upon such demand as aforesaid, to be made to such Justice, on the day next after such Meeting shall have finally dispersed, and not before, any such weapon that shall have been so peaceably and quietly delivered up to such Justice of the Peace as aforesaid, shall, if of the value of five shillings or upwards, be returned by such Justice of the Peace to the person from whom the same may have been so received as aforesaid : Provided always, that no such Justice of the Peace shall be held liable to return any such weapon, or make good the value thereof, in case the same shall by unavoidable accident, have been actually destroyed or lost out of the possession of such Justice without his wilful default.

Persons
guilty of Bat-
tery within two

XVII. And be it enacted, that any person who shall be convicted of a battery, committed during any part of the day whereon any such Public Meeting shall be appointed,

appointed, to be held within the distance of two miles of the place where such meeting shall be so appointed to be held, shall be punishable by a fine of not more than twenty-five pounds, and imprisonment for not more than three Calendar months, or either, in the discretion of the Court, whose duty it shall be to pass the sentence of the law upon such person upon his conviction.

miles of meeting to be punished by certain penalties.

XVIII. And be it enacted, that except for the High Sheriff, under Sheriff, and Justices of the Peace for the District or County, or the Mayor and High Bailiff, and Justices of the Peace for the City or Town respectively, in which any such Meeting shall be held, and the Constables and Special Constables employed by them or any of them, for the preservation of the public peace at such Meeting, it shall not be lawful for any person to come during any part of the day upon which such Meeting shall be appointed to be held, within two miles of the place where such meeting is appointed to be held, armed with any offensive weapon of any kind, as fire arms, swords, staves, bludgeons, or the like, and any person who shall offend against the provisions in this section contained, shall be deemed guilty of a Misdemeanor, punishable by fine not exceeding twenty-five pounds, and imprisonment not exceeding three Calendar months, or both, at the discretion of the Court, whose duty it shall be to pass the sentence of the law upon such person, upon his conviction.

No one to approach armed within two miles of meeting.

XIX. And be it enacted, that any person who shall lie in wait for any person returning or expected to return, from any such Public Meeting, with intent to commit an assault upon such person, or with intent by abusive language, opprobrious epithets or other offensive demeanor directed to, at or against such person, to provoke such person, or those who may accompany him to a breach of the Peace, shall be deemed guilty of a Misdemeanor, punishable by fine not exceeding fifty pounds, and imprisonment not exceeding six Calendar months, or both, at the discretion of the Court, whose duty it shall be to pass the sentence of the law upon such person, upon his conviction.

Persons guilty of lying in wait how to be punished.

XX. And be it enacted, that every action to be brought against any person for any thing by him done under authority of this Act, shall be brought within twelve Calendar months next after the cause of such action accrued, and in default thereof the lapse of such twelve months shall be a good defence to such action.

Actions for anything done under Act to be brought within twelve months.

XXI. And be it enacted, that this Act, shall be publicly read aloud at full length in open Court by the Clerk of the Peace or his Deputy, or other similar Officer of the Court, on the first day of every General Quarter Sessions of the Peace that shall be held for any District, County, City or Town in this Province, within the two years next after the passing thereof.

Act to be read at Quarter Sessions for two years.

SCHEDULE.

SCHEDULE A.

Clause

To be added to the Notice or Summons for calling any Public Meeting required by Law :

Clause to be added to notice or summons for calling meetings required by law.

And be it known, that the Meeting to be held in pursuance hereof, is called in conformity with the provisions of the Act of Parliament of the (*here insert the year and chapter of this Act*) intituled, *An Act to provide for the calling and orderly holding of Public Meetings in this Province, and for the better preservation of the public peace thereat*; and that the said Meeting and all persons attending the same will therefore be within the protection of the said Act, of all which premises, all manner of persons are hereby in Her Majesty's name most strictly charged and commanded, at their peril, to take especial notice, and to govern themselves accordingly.

SCHEDULE B.

Notice

By Sheriff, Mayor, &c., or Justices of the Peace, for calling Public Meetings on requisition.

Notice

Notice by Sheriff, Mayor, or Justices calling public meeting on requisition.

To the Inhabitants of the District of A. (*or as the case may be*) and all others Her Majesty's subjects whom it doth or may in any wise concern :

Whereas, I, A. B. High Sheriff of &c. (*or We, C. D. and E. F.*) two (*or whatever the number may be*) of Her Majesty's Justices of the Peace, for the District of A., resident within the said District (*or resident within the said County of B. or as the case may be*) having received a requisition, signed by I. J. K. L. &c., &c. (*inserting the names of at least twelve of the requisitionists and as many more as conveniently may be, and mentioning the number of the others thus*) and fifty-six (*or as the case may be*) others, who (*or "twelve of whom"*) are freeholders of the said District, (*or "Citizens of the said City"*) having a right to vote for members to serve in the Provincial Parliament, in respect of the property held by them within the said District, (*or "City" &c., as the case may be*) requesting me (*or "us"*) to call a Public Meeting

Meeting of (*here recite the requisition.*) And whereas, I (*or we*) have determined to comply with the said requisition, now therefore, I (*or we*) do hereby appoint the said Meeting to be held at _____ (*here state the place*) on _____ the _____ day of _____ next (*or instant*) at _____ of the clock in the _____ noon, of which all persons are hereby required to take notice. And whereas the said Meeting hath been so called by me (*or us*) in conformity with the provisions of the Act of Parliament of the (*here insert the year and chapter of this Act*), intituled, *An Act to provide for the calling and orderly holding of Public Meetings in this Province, and for the better preservation of the public peace thereat*, and the said Meeting and all persons who may attend the same will therefore be within the protection of the said Act, of all which premises all manner of persons are hereby in Her Majesty's Name most strictly charged and commanded, at their peril, to take especial notice, and to govern themselves accordingly.

Witness, my hand (*or our hands,*) at _____ in the District of _____ this _____ day of _____ 18 _____.

A. B., Sheriff,

or

C. D., J. P.

E. F., J. P.

SCHEDULE C.

Notice and Declaration by Justices of the Peace, that a Meeting about to be held, shall be within the protection of this Act.

Notice and Declaration

To the Inhabitants of the District of A. (*or as the case may be*) and all others Her Majesty's subjects whom it doth or may in any wise concern :

Whereas, by Information on oath, taken before D. E., Esquire, one of Her Majesty's Justices of the Peace for the District of C. (*or "City of," as the case may be,*) within which the Meeting hereinafter mentioned is appointed to be held, it appears that a Public Meeting of the Inhabitants (*or householders, &c. as the case may be,*) of the District of G. (*or, as the case may be,*) is appointed to be held at _____ in the said District (*or, as the case may be,*) on _____

Notice and declaration by Justices, that public meeting about to be held, shall be within protection of the Act.

the

the day of next (or instant) at
of the clock in the noon, or at some other
hour on the same day ; and that there is reason to believe that great numbers
of persons will be present at such Meeting ; and whereas it appears expedient to
us, C. D. and E. F. two (or whatever the number may be) of Her Majesty's Jus-
tices of the Peace, having Jurisdiction within the said District (or as the case may
be) that, with a view to the more orderly holding of the said Meeting, and the
better preservation of the public peace at the same, the said Meeting, and all per-
sons who may attend the same should be declared within the protection of
a certain Act of Parliament of the (here insert the year and chapter of this Act)
intituled, *An Act to provide for the calling and orderly holding of Public Meetings
in this Province, and for the better preservation of the public peace thereat*: Now
therefore, in pursuance of the provisions of the said Act and the authority in us
vested by virtue of the same, We, the said Justices, do hereby give notice of the
holding of the said Meeting, and do hereby declare the said Public Meeting, and
all persons who may attend the same, to be within the protection of the said Act
of Parliament ; of all which premises all manner of persons are hereby in Her Ma-
jesty's name most strictly charged and commanded, at their peril, to take especial
notice, and to govern themselves accordingly.

Witness, our hands, at
this

day of

in the District of
18 .

C. D., J. P.
E. F., J. P.
&c.

C A P . VIII.

An Act to exempt Public Officers from the expense of new Commis-
sions, on the demise of the Crown.

[9th December, 1843.]

Preamble.

WHEREAS, on the demise of the Crown, it has been customary in the late
Provinces of Lower Canada and Upper Canada, to renew the Commis-
sions to the several Public Officers and Functionaries holding office during pleasure
or otherwise, at the time of such demise, to the great expense of such Functionaries
and the inconvenience of the public for remedy whereof ; Be it therefore enacted by
the Queen's Most Excellent Majesty, by and with the advice and consent of the Le-
gislative Council and of the Legislative Assembly of the Province of Canada, con-
stituted and assembled by virtue of and under the authority of an Act passed in the
Parliament

Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that hereafter, upon any demise of the Crown, it shall not be necessary to renew the Commissions, nor any of them, in virtue whereof the several Public Officers or Functionaries in this Province held their respective offices or professions, under or during the previous Reign, but that a Proclamation by the Governor, or person administering the Government of the Province for the time being, authorizing and desiring all persons in office holding Commissions under the late Sovereign, and Functionaries exercising any profession in virtue of any such Commission, to continue in the due exercise of their respective duties, functions and professions, shall suffice and accordingly be issued, the Incumbents taking always the usual and customary oath of Allegiance, as soon thereafter as may be, before the proper Officer or Officers thereunto appointed; and such Proclamation being issued, and oath taken, each and every such Public Officer and Functionary may and shall continue in the lawful exercise of the duties and functions of his office or profession, as fully, to all intents and purposes, as if appointed *de novo* by Commission derived from the Sovereign for the time being; and that all Acts and things *bonâ fide* done and performed by such Incumbents in their respective offices, and in the due and faithful performance of their duties and functions, between the time of such demise and the Proclamation so to be issued, (such oath of Allegiance being always duly taken) shall be deemed and taken to be duly and legally done, and as such good and valid.

No new Commissions need be issued at the commencement of a new Reign; but a Proclamation continuing all public officers, &c. in their respective Offices, shall issue and be sufficient.

Oath of Allegiance to the Sovereign to be taken.

Acts done by such Public Officers, &c. to be valid.

II. Provided always, and be it enacted, that nothing herein contained shall be construed to prejudice, nor in any wise affect the rights or Prerogative of the Crown with respect to any office or appointment derived or held by authority from it, nor to prejudice or affect the rights or Prerogatives thereof in any other respect whatsoever.

Proviso—saving the rights of the Crown.

C A P. IX.

An Act further to provide for the establishment and maintenance of Common Schools, and for apportioning the fund for the support of the same, and also to grant an indemnity for the payment of certain portions of the School Monies for the year one thousand eight hundred and forty-two, and further to provide for the apportionment and distribution of the balance of the said Monies for the years one thousand eight hundred and forty-two, and one thousand eight hundred and forty-three.

[9th December, 1843.]

Preamble.

WHEREAS it is expedient to make further provision for the establishment and maintenance of Common Schools throughout this Province; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the sum of fifty thousand pounds annually, now granted by law for the maintenance and support of Common Schools in this Province, shall, from year to year, be apportioned by order of the Governor of this Province, in Council, between the divisions of this Province formerly constituting the Provinces of Upper and Lower Canada, in proportion to the relative numbers of the Population of the same, respectively, as such numbers shall, from time to time, be ascertained by the census next before taken in each of the said divisions, respectively.

The sum granted annually of £50,000 to be divided in a certain proportion, between Upper and Lower Canada.

Proportion in which the same shall be divided, until a census of Lower Canada be taken.

II. And whereas, by reason of the laws relative to Municipal Institutions not having been carried into effect in Lower Canada aforesaid, no effectual census of the population of the said division of the Province has been lately taken; Be it therefore enacted, that until such a census shall be taken, the said sum shall be apportioned between the said divisions of the Province, in the proportion of thirty thousand pounds, currency of this Province, for Lower Canada aforesaid, and twenty thousand pounds for Upper Canada.

Governor's Message recited.

III. And whereas it has been communicated by His Excellency the Governor General, by Message, during the present Session, to both Houses of the Provincial Parliament, that for certain reasons therein mentioned, the School Monies appropriated

appropriated by law, for the year one thousand eight hundred and forty-two, could not be apportioned and paid in Lower Canada, and also partly in Upper Canada, to the full amount thereof, nor in the exact manner prescribed by law, but that the said Monies have been apportioned and paid in the manner set forth in the said Message and accompanying Documents, under certain orders of the Governor in Council, of the thirteenth day of January, the sixteenth day of March, the fourth day of April, and the seventeenth day of August, in the year one thousand eight hundred and forty-three, to the amount of eighteen thousand and fifty-eight pounds, fourteen shillings and five pence and one farthing, currency, for Upper Canada, and of nine thousand seven hundred and ninety pounds, seven shillings and six pence, currency, for Lower Canada, and it is expedient to cover the said payments by legislative enactment; Be it therefore enacted, that all persons whomsoever, in any manner concerned in advising, directing or making the apportionment, disposition and payment of the Common School Money, in accordance with the aforesaid orders in Council, shall be held fully harmless and indemnified for all acts advised or done by them therein, any thing in the Act, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and to make further provision for the establishment and maintenance of Common Schools throughout the Province*, in any wise notwithstanding; and the apportionment and payments so made shall be held to have been made according to law, to all intents and purposes whatsoever: Provided always, that all persons entrusted with the distribution thereof in the various Districts, Counties, and other Sub-divisions of the Province, shall duly account for the same.

Indemnity to persons having advised or acted under the orders in Council mentioned in the said Message.

Provido.

IV. And whereas, the sum appropriated for the establishment and maintenance of Common Schools, according to the said Act, for the year of our Lord one thousand eight hundred and forty three, has not yet been apportioned or distributed; and whereas it is impossible to apportion and distribute a large portion of the same according to the said Act; Be it therefore enacted, that it shall and may be lawful for the Governor of this Province in Council to make division and apportionment of the said sum for the year of our Lord one thousand eight hundred and forty-three, or of part thereof, in such manner as may be provided by any Act of the Legislature of this Province during the present Session, or in default thereof, as shall in the opinion of the Governor in Council be justly and equitably apportionable for such Schools as may be entitled to the same, according to the true intent and spirit of the Act above mentioned.

Preamble.

Governor in Council authorized to apportion the Common School monies for 1843.

V. And be it enacted, that all the balance of the said Common School Money for the said two years, which shall remain undistributed and unapportioned in each section of the Province respectively, for the years one thousand eight hundred

And also any balance of the said monies for the years 1842 & 1843.

dred and forty-two and one thousand eight hundred and forty-three, shall be distributed and apportioned under the orders of the Governor and Council, according to any Act which may be provided in that behalf during the present Session of the Legislature, or in default thereof, as may appear to the Governor in Council just and equitable, in aid of the building of School Houses, or for other Common School purposes, in the several counties or other territorial divisions of Upper Canada and of Lower-Canada, respectively.

Interpretation
clause.

VI. And be it enacted, that the word "Governor" wherever it occurs in this Act, shall be construed to apply to the person administering the Government of this Province.

Accounting
clause.

VII. And be it enacted, that the due application of all monies to be applied or expended under the authority of this Act, shall be accounted for to Her Majesty, Her Heirs and Successors, in such manner and form as Her Majesty, Her Heirs and Successors may direct; and the accounts for the same shall also be laid before each branch of the Provincial Legislature during the first fifteen days of each Session thereof.

C A P. X.

An Act to repeal an Ordinance of Lower Canada, intituled, *An Ordinance concerning Bankrupts, and the administration and distribution of their estates and effects*," and to make provision for the same object throughout the Province of Canada.

[9th December, 1843.]

Preamble.

WHEREAS it is desirable to repeal a certain Ordinance of the Governor and Special Council of the Province of Lower Canada, passed in the second year of Her Majesty's Reign, intituled, *An Ordinance concerning Bankrupts, and the administration and distribution of their estates and effects*," and to provide, by a general law of this Province, for the discovery and securing of the estates and effects of bankrupts, for the benefit of their creditors, and for the administration and distribution thereof, and also for the relief of such traders as shall, without any fraud or gross misconduct, have become unable to pay all their debts in full, and who shall have made a full disclosure and discovery of all their estates and effects, as hereinafter required; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council

Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that all persons being merchants, or using the trade of merchandize, bankers, brokers, persons insuring ships or other vessels, or their freight or other matters, against perils of the sea or of inland navigation, builders, carpenters, shipwrights, keepers of inns, taverns, hotels or coffee houses, millers, lumberers or ship-owners, and all persons who, either for themselves or as agents or factors for others, seek their living by buying or selling, or by buying and letting for hire, or by the workmanship of goods or commodities, shall be deemed traders, within the scope and meaning of this Act: Provided, that no farmer, grazier, common laborer or workman for hire, or member of or subscriber to any incorporated commercial or trading company, established by Royal Charter or Legislative enactment, shall be deemed as such a trader liable, by virtue of this Act, to become bankrupt.

What persons
will be liable to
be made bank-
rupts.

Proviso.

II. And be it enacted, that every such trader who shall be arrested on mesne process, in any civil action founded on a demand proveable, in its nature, against a bankrupt's estate, according to the provisions of this Act, and who shall not give bail therein on or before the return day of such process; and every such trader who shall fly or abscond for his personal safety from such arrest; and every such trader who shall be actually imprisoned in or confined upon the limits of any Gaol in this Province, for more than thirty days, either upon mesne process or in execution in any civil action, founded on a demand proveable as aforesaid, or who shall escape from any such imprisonment; and every such trader whose goods or estate shall be attached on mesne process, in any civil action founded on a demand proveable as aforesaid, who shall not dissolve or supersede such attachment by giving security or otherwise, within twenty days after the return day thereof; and every such trader who shall depart this Province, or abscond, or remain concealed therein, with intent to defraud his creditors; and every such trader who shall make, or cause to be made, within this Province, any fraudulent grant or conveyance of any of his lands, household goods, or chattels, or any fraudulent gift, delivery or transfer of any of his monies, goods or chattels, or other effects or assets, or of his credits or evidences of debt; and every such trader who shall willingly or fraudulently procure himself to be arrested, or his goods or chattels, debts or credits, lands or tenements, to be attached, distrained, sequestered or taken in execution; and every such trader who shall remove or cause to be removed, or who shall conceal or cause to be concealed, any of his goods, chattels or effects, in order to prevent their being levied upon, or taken in execution under attachment or other process, shall be deemed to have thereby committed an act of bankruptcy.

What shall
be acts of
bankruptcy.

Any trader may be summoned by his creditor before a Judge or Commissioner.

III. And be it enacted, that if any creditor of any such trader, or the duly accredited and appointed agent or attorney of any such creditor of such trader, shall make an affidavit before the proper Judge or Commissioner, in the form specified in the Schedule hereunto annexed (A. No. 1,) of the truth of his debt, and that the debtor, as he verily believes, is such trader as aforesaid, and that he has caused to be delivered to such trader personally, or to some grown person belonging to his family or his establishment, at his usual place of business, an account in writing of the particulars of his demand, with a notice thereunder requiring immediate payment thereof, in the form specified in the said Schedule (A. No. 2,) which affidavit shall be duly filed, it shall be lawful for such Judge or Commissioner to issue a Summons, in writing, in the form specified in the said Schedule (A. No. 3,) calling upon such trader to appear before him, and stating in such Summons the purpose for which such trader is called upon to appear, as hereinafter provided.

Proceedings on the appearance of the trader on such summons.

IV. And be it enacted, that upon the appearance of any such trader so summoned as aforesaid, it shall be lawful for such Judge or Commissioner to require him to state whether or not he admits the demand of his creditor, so sworn to as aforesaid, or any and what part thereof; and if such trader shall admit the demand, or any part thereof, to reduce such admission into writing in the form specified in the Schedule hereunto annexed, (B. No. 1,) and the admission so reduced into writing he is hereby required to sign, and the same is thereupon to be filed; and it shall also be lawful for the Judge or Commissioner to allow such trader, on his said appearance, to make a deposition upon oath, in writing, under his hand, (to be also filed,) in the form specified in the said Schedule, (B. No. 2,) that he verily believes he has a good answer to the said demand, or to some and what part thereof.

The trader so summoned, and failing to comply with the requirements of this section shall be deemed to have committed an act of bankruptcy.

V. And be it enacted, that if any such trader, so summoned as aforesaid, shall not come before the Judge or Commissioner, at the time appointed, (having no lawful impediment made known to, and allowed at the said time by the Judge or Commissioner,) or if any such trader, upon his appearance to such Summons, shall refuse to admit the demand, and shall not make a deposition in the form hereinbefore mentioned, that he believes he has a good answer to such demand, then and in either of the said cases, if such trader shall not, within twenty-one days after personal service of such Summons, pay, secure or compound for the demand, to the satisfaction of his creditor, or enter into a bond in such sum and with two sufficient sureties as the Judge or Commissioner shall approve of, to pay such sum as shall be recovered in any action which shall have been or shall thereafter be brought for the recovery of the same, together with such costs as shall be given in that action, every such trader shall be deemed to have committed an act of bankruptcy.

ruptcy on the twenty-second day after service of such Summons : Provided, a commission of bankruptcy shall issue against such trader within two months from the filing of the said affidavit of the creditor.

Proviso.

VI. And be it enacted, that if any such trader, so summoned as aforesaid, shall, upon his appearance thereto, refuse to state whether or not he admits such demand, or any part thereof, or, whatever may be the nature of his statement, shall, notwithstanding, refuse to sign the admission in that behalf required as aforesaid, it shall be deemed for the purposes of this Act, that every such trader thereby refuses to admit such demand : Provided always, that it shall be lawful for such Judge or Commissioner to enlarge the time for calling upon such trader to state whether or not he admits such demand or any part thereof, for such reasonable time as the said Judge or Commissioner shall think fit.

Trader refusing to sign the admission required of him.

Proviso.

VII. And be it enacted, that if any such trader, so summoned as aforesaid, upon his said appearance, shall sign an admission of the demand in the form aforesaid, and shall not within twenty-one days next after the filing of such admission, pay or tender and offer to pay to his creditor the amount of the said demand, or secure or compound for the same to the satisfaction of his creditor, every such trader shall be deemed to have committed an act of bankruptcy on the twenty-second day after the filing of such admission : Provided a commission of bankruptcy shall issue against such trader within two months from the filing of the said affidavit of the creditor.

Trader signing admission, but not discharging the debt.

Proviso.

VIII. And be it enacted, that if any such trader, so summoned as aforesaid, shall, upon his said appearance, sign an admission only for part of the demand, in the form aforesaid, and shall not make a deposition in the form herein-before required, that he believes he has a good defence to the residue of the said demand, then, if such trader, as to the sum so admitted, shall not, within twenty-one days next after the filing of such admission, pay or tender and offer to pay to his creditor the sum so admitted, or secure and compound for the same, to the satisfaction of the creditor, and as to the residue of such demand, shall not, within twenty-one days after personal service of such Summons, pay, secure, or compound for the same, to the satisfaction of his creditor, or enter into a bond, in such sum and with two sufficient sureties, as the Judge or Commissioner shall approve of, to pay whatever sum shall be recovered in any action which shall have been, or shall thereafter be brought for the recovery thereof, together with such costs as shall be given in that action, every such trader shall be deemed to have committed an act of bankruptcy, on the twenty-second day after the service of the Summons : Provided a commission of bankruptcy shall issue against such trader within two months from the filing of the said affidavit of the creditor.

Trader signing admission for the demand, but not complying with the other requirements.

Proviso.

IX.

Trader signing admission to a part of demand, arbitrators may be appointed to determine the amount due.

IX. And be it enacted, that in any case, when any such trader so summoned as aforesaid, shall, upon his said appearance, make a deposition in the form hereinbefore required, that he believes he has a good answer to the said demand, or to some and what part thereof, it shall and may be lawful for the Judge or Commissioner, on the application of the said trader, or of his creditor acting as aforesaid, to name one arbitrator, for the said trader to name a second, and for the creditor, whose claim is disputed, to name a third, to arbitrate and adjudge between the parties respectively as to such demand; and in case either the said trader or the creditor shall refuse or neglect to name an arbitrator as aforesaid on his behalf, then the said Judge or Commissioner shall nominate and appoint such arbitrator; and the award and determination of any two of them, the said arbitrators, shall be final and conclusive, unless the same shall be set aside by the Court of Review, as hereinafter provided; and every such trader who shall not, within twenty-one days next after the filing with such Judge or Commissioner by such arbitrators of such award and determination, pay or tender and offer to pay to his creditor the amount of the said award or determination, if against him, in whole or in part, or secure or compound for the same, to the satisfaction of his creditor, every such trader shall be deemed to have committed an act of bankruptcy on the twenty-second day after the filing of such award and determination: Provided, a commission of bankruptcy shall issue against such trader within two months from the filing of the said affidavit of the creditor.

Admissions made elsewhere than before a Judge or Commissioner.

Proviso.

Proviso.

Proviso.

X. And be it enacted, that an admission of any debt signed by any such trader elsewhere than before the summoning Judge or Commissioner, may be filed by him, or on his behalf, and shall be of the same force and effect, to all intents and purposes, as an admission signed by such trader, so summoned as aforesaid, on his appearance: Provided, there be present some Attorney of one of the Superior Courts of this Province, or any Notary Public in and for that part of the Province heretofore called Lower Canada, on behalf of such trader, expressly named by him and attending at his request, to inform him of the effect of such admission, before he shall sign the same: And provided also, that the said Attorney or Notary do subscribe his name thereto as a witness to the due execution thereof, and in such attestation declare himself to be Attorney or Notary attending on behalf of such trader, and state therein that he subscribes as such Attorney or Notary: And provided, such admission shall be in the form of the Schedule (C. No. 1.) hereunto annexed.

Costs to the trader summoned.

XI And be it enacted, that when any trader against whom an affidavit of debt is filed as aforesaid, shall be summoned to appear before any Judge or Commissioner, as aforesaid, and such Summons shall be dismissed without any proceeding being thereupon taken against any such trader, every such trader shall have such costs and charges as the Judge or Commissioner shall think fit.

XII.

XII. And be it enacted, that in every action brought after the commencement of this Act, wherein any such creditor is plaintiff, and any such trader is defendant, and wherein the plaintiff shall not recover the amount of the sum for which he shall have filed an affidavit under the provisions of this Act, such defendant shall be entitled to costs of suit, to be taxed according to the custom of the Court in which such action shall have been brought: Provided, that it shall be made to appear, to the satisfaction of the Court in which such action is brought, upon motion to be made in Court for that purpose, and upon hearing the parties by affidavit, that the plaintiff in such action had not any reasonable or probable cause for making such affidavit of debt, in such amount as aforesaid: And provided, such Court shall thereupon, by a rule or order, direct that such costs shall be allowed to the defendant; and the plaintiff shall, upon such rule or order being made, be disabled from taking out any execution for the sum recovered in the said action, unless the same shall exceed (and then in the sum only that the same shall exceed) the amount of the taxed costs of the defendant; and in case the sum recovered in the said action shall be less than the amount of the costs of the defendant, to be taxed as aforesaid, that then the defendant shall be entitled, after deducting the sum of money recovered by the plaintiff in such action, from the amount of his costs, so to be taxed as aforesaid, to take out execution for such costs, in like manner as a defendant may now by law have execution for costs in other cases.

Costs allowed to trader in cases where the plaintiff shall not recover the amount sworn to as aforesaid.

Proviso.

Proviso.

XIII. And be it enacted, that if any plaintiff shall recover judgment in any action personal, in any of Her Majesty's Courts of Record, in this Province, against any such trader, and shall be in a situation to sue out execution thereupon, and there be nothing due from the plaintiff by way of set off against his judgment, and such trader shall not, within twenty-one days after notice in writing personally served upon him requiring immediate payment, pay, secure or compound for the same, to the satisfaction of the plaintiff, he shall be deemed to have committed an act of bankruptcy upon the twenty-second day after the service of such notice: Provided always, that if such execution shall in the mean time be suspended or restrained by any rule, order or proceeding of any Court having jurisdiction in that behalf, no further proceeding shall be had upon such notice, but that it shall be lawful nevertheless for such plaintiff, when he shall again be in a situation to sue out execution on such judgment, to proceed again by notice in manner before directed.

Plaintiff having recovered judgment in a personal action against a trader.

XIV. And be it enacted, that if any decree or order shall be pronounced in any cause depending in any Court of Law or Equity, or any order be made in any matter of bankruptcy or lunacy against any such trader ordering him to pay any sum of money, and such trader shall disobey such order, the same having been

Trader refusing to pay money ordered to be paid by a Court of Law or Equity.

been duly served upon him, the person entitled to receive the money under such decree or order, or interested in enforcing the payment thereof pursuant thereto, may apply to the Court by which the same shall have been pronounced, to fix a peremptory day for the payment of such money, which shall accordingly be fixed by an order for that purpose ; and if such trader, being personally served with such last mentioned order twenty-one days before the day therein appointed for payment of the money, shall neglect to pay the same, he shall be deemed to have committed an act of bankruptcy on the twenty-second day after the service of such order.

A certain declaration voluntarily made by a trader to be an act of bankruptcy.

XV. And be it enacted, that if any trader shall file, with the Judge or Commissioner within the District in which such trader resides, or in which he has his usual place of business, a declaration in writing in the form of the Schedule (D) hereunto annexed, signed by such trader, and attested by an Attorney or Notary as aforesaid, that he is unable to meet his engagements, every such trader shall be deemed thereby to have committed an act of bankruptcy at the time of filing such declaration, provided a commission of bankruptcy shall issue against such trader within two months from the filing of such declaration ; and a copy of such declaration, sealed with the seal of the Court over which the Judge shall preside, or with the seal of the Commissioner with whom the same shall be filed, shall be received as evidence of such declaration having been filed.

Within what time a commission of bankruptcy may issue.

XVI. And be it enacted, that no trader shall be liable to become bankrupt by reason of any act of bankruptcy committed more than four months prior to the issuing of a commission of bankruptcy against him.

Commission not to be deemed invalid if obtained by agreement.

XVII. And be it enacted, that no commission of bankruptcy shall be deemed invalid by reason of any act of bankruptcy of the person against whom such commission shall be issued, having been concerted or agreed upon between the bankrupt and any creditor or other person.

Publication of a commission of bankruptcy in the Canada Gazette to be evidence of certain facts.

XVIII. And be it enacted, that if the bankrupt shall not, (if he were within the Province at the date of the commission.) within twenty-one days after notice of the bankruptcy in the Gazette of Canada, or (if out of the Province at the date of the commission within four months after such notice,) have commenced an action, suit, or other proceeding to dispute the commission, and have prosecuted the same with due diligence and effect, the Gazette containing such notice shall be conclusive evidence in all cases, as well criminal as civil, against the bankrupt, and in all actions at law, or suits in equity, brought by, or against the assignees, or by or against any person claiming any right, estate, or interest, by, through or under the bankrupt, that such person against whom the commission issued became

came a bankrupt before the date and suing forth of the said commission, and that such commission was sued forth on the day in which the same is stated in the Gazette to bear date.

XIX. And be it enacted, that all payments, securities, conveyances or transfers of property, or agreements made or given by any trader in contemplation of bankruptcy, and for the purpose of giving any creditor, indorser, surety or other person, any preference or priority over the general creditors of such bankrupt, and all other payments, securities, conveyances or transfers of property or agreements, made or given by such trader in contemplation of bankruptcy, to any person or persons whatever, not being a *bonâ fide* creditor or purchaser for a valuable consideration without notice, shall be deemed utterly void, and a fraud under this Act; and the assignees under the bankruptcy shall be entitled to claim, sue for, recover and receive the same as part of the assets of the bankrupt, and the person making such unlawful preference or payment shall receive no discharge under the provisions of this Act: Provided always, that all dealings and transactions, by and with any bankrupt, *bonâ fide* made and entered into more than thirty days before the issuing of the commission against him, shall not be invalidated or affected by this Act: Provided, that the other party to such dealings or transaction had no notice of a prior act of bankruptcy: And provided also that nothing in this Act contained shall be construed to annul, destroy or impair any lawful rights of married women, or minor, or any liens, mortgages, hypothecs or other securities on property, real or personal, which may be valid by the laws of any part of this Province, and which are not inconsistent with the provisions of this Act.

Conveyances made for the purpose of giving undue preference to any creditor to be void.

Proviso.

Proviso.

XX. And be it enacted, that the several Judges of the District Courts in this Province, and the several Commissioners appointed under the Ordinance of Lower Canada concerning bankrupts, or to be hereafter appointed, shall and may within their respective Districts, locality and jurisdiction, exercise, fulfill and perform, the acts, powers, duties and authority, by this Act vested in, given to, or directed or authorized to be performed by them, for the several purposes in this Act contained: Provided, that nothing in this Act contained shall prevent the Governor from removing any one or more of the Commissioners heretofore appointed, as in and by the said Ordinance is declared and provided: And provided also, that in any District in this Province, where the business may appear to be greater than the Judge of the District Court can conveniently dispose of, it shall be lawful for the Governor, from time to time, to appoint a Commissioner to have concurrent jurisdiction, power and authority, in matters of bankruptcy within such District with the Judge thereof, and to remove such Commissioner, and appoint another in his place: And provided always, that no person shall be a Judge or Commissioner as aforesaid in this Province, unless he be a Barrister at Law, of at least five years standing.

Who shall be or act as commissioners of bankrupts.

Proviso.

Proviso.

XXI.

Amount which must be due to the creditor or creditors petitioning for a commission of bankruptcy.

XXI. And be it enacted, that the amount of the debt or debts of any creditor or creditors, petitioning for a commission of bankruptcy under this Act, shall be as follows, that is to say : the single debt of such creditor, or of two or more persons, being partners petitioning for the same, shall amount to fifty pounds or upwards ; and the debts of two creditors so petitioning, shall amount to seventy pounds or upwards ; and the debts of three or more creditors so petitioning, shall amount to one hundred pounds or upwards ; and that every person who has given credit to any trader upon valuable consideration, for any sum payable at a certain time, which time shall not have arrived when such trader committed an act of bankruptcy, may so petition, or join in petitioning as aforesaid, whether he shall have had any security in writing for such sum or not.

Issuing of the Commission and proceedings thereon.

XXII. And be it enacted, that after any act of bankruptcy as aforesaid committed, such creditor may make application, upon affidavit, to the Judge or Commissioner for the District within which such trader resides, or has his usual place of business, setting forth the nature and amount of the debt due to him by such trader, and the act of bankruptcy by him committed ; which act of bankruptcy shall also be proved on the oath of at least one credible witness, not being a creditor of the trader ; and thereupon it shall and may be lawful for such Judge or Commissioner, by commission under his hand and seal, to appoint and authorize the Sheriff of the District aforesaid, to take and receive possession of all the estate, real and personal, of such trader, excepting such as may be by law exempted from attachment, and of all the deeds, books of account and papers, of such trader, and to keep the same safely until the appointment of assignees.

First meeting of creditors appointed.

XXIII. And be it enacted, that the Judge or Commissioner shall, in the commission, fix the day and place for the first meeting of the creditors of such bankrupt, which shall be at some convenient place within the District wherein such commission is issued ; and the time shall not be less than fourteen days, nor more than thirty days, after the date of the commission.

Notice to be given.

XXIV. And be it enacted, that the Sheriff shall forthwith give public notice in such newspapers within the District as the Judge or Commissioner shall designate, and also such personal or other notice to any person concerned, as the Judge or Commissioner shall prescribe, setting forth the issuing of the commission, and naming the day and place appointed in such commission for the meeting of the creditors of the bankrupt ; and further, that such Sheriff shall forthwith transmit a similar notice for insertion in the Gazette of Canada, which notice shall be in the form in the Schedule (E.) to this Act annexed ; Provided always, that if in any case it shall be shewn by affidavit to the Judge or Commissioner, that the party to whom any Summons is directed, or on whom any notice is

Proviso :—
Case of any party avoiding service of notice provided for.

is appointed to be served, in pursuance of any provision of this Act, is keeping out of the way, and cannot be personally served with such Summons or notice, it shall be lawful for the Judge or Commissioner to order, by endorsement on such Summons or notice, that the delivery of a copy thereof to the wife or servant, or some adult inmate of the family of such party, at his usual place of abode, and explaining the purport thereof to such wife, servant or inmate, shall be equivalent to personal service, and in every such case the service of such Summons or notice, in pursuance of such order, shall be deemed and taken to be of the same force and effect, to all intents and purposes, as if a copy of such Summons or notice had been delivered to the party or person.

XXV. And be it enacted, that the Sheriff shall, as soon as may be after the issue of the commission, demand and receive from the bankrupt, and from all other persons, all the estate in his or in their possession which belongs to such bankrupt, with all the deeds, books of account and papers relating thereto; and the bankrupt shall accordingly deliver to the Sheriff such part of the said estate and other things above specified as may then be within his possession or power, and shall disclose the situation of such parts thereof as may then be in the possession of any other person, or so to enable the Sheriff to demand and receive the same; and the bankrupt shall also make a schedule containing a full and true account of all his creditors, with the place of residence of each creditor, if known to him, and the sum due to each; and the said schedule shall also set forth the nature of each debt, whether founded on written security, on account, or otherwise, and also the true cause or consideration thereof, and a statement of any existing mortgage, hypothec, pledge, or other collateral security, given for the payment of the same, which schedule he shall produce at the first meeting of his creditors, to be delivered to the assignees who shall then be chosen.

Sheriff to take possession of the bankrupt's estate.

Bankrupt to make a schedule of his debts.

XXVI. And be it enacted, that the Judge or Commissioner shall attend the meeting, and shall receive proof of the debts due to the creditors of such bankrupt who shall be present, and shall allow all the debts which shall be duly proved, and cause a list thereof to be made, which shall be certified by himself, and be recorded and filed with the other papers in the case; and the creditors so present as aforesaid, who shall have proved their debts, shall then proceed in presence of the Judge or Commissioner to choose one or more assignee or assignees of the estate of the bankrupt, such choice to be made by the greater part in value of the creditors according to the debts then proved.

Debts to be proved, and assignees chosen.

XXVII. And be it enacted, that before such meeting any creditor desiring to vote thereat, may make oath of the amount and nature of the debt due to him by such bankrupt, and at such meeting any person duly authorized by a creditor, and producing

Creditors may vote by attorney after duly proving their claims.

producing the affidavit of debt, and a letter of attorney from such creditor, the execution whereof shall in like manner be proved by oath, shall be entitled to have the debt of such creditor allowed and included in such list as aforesaid, (provided the affidavit shall in the opinion of such Judge or Commissioner sufficiently prove the same) and to vote in the choice of assignees.

Commissioner
may require
further proof
of debt;

Appeal.

XXVIII. And be it enacted, that the Judge or Commissioner may, in his discretion, require further proof on oath of any debt claimed before him, and may examine the party claiming the same, or the agent who shall present the claim in his behalf, and also the bankrupt, on their respective oaths, on all matters relating to such claim; and any supposed creditor or person interested in the administration of the bankrupt's estate who shall be dissatisfied with the decision of the Judge or Commissioner, in regard to the rejection or admission of any claim, may appeal from such decision, and have the matter determined in a summary way by the Court of Review hereinafter mentioned.

In case of fail-
ure to elect as-
signees, the
Commissioner
may appoint
them.

XXIX. And be it enacted, that in case no choice of an assignee or assignees shall be made by the creditors at the said first meeting, the Judge or Commissioner shall appoint one or more assignees, and if any assignee so chosen or appointed shall not, within six days after notice thereof, signify his acceptance in writing, and delivered to such Judge or Commissioner, then his election or appointment shall be considered void, and the Judge or Commissioner shall from time to time proceed to appoint until the acceptance is duly signified.

Assignees ac-
cepting, to be
appointed by
an instrument.

Effect of copies
of such instru-
ment.

XXX. And be it enacted, that as soon as such acceptance shall be signified to the Judge or Commissioner as aforesaid, he shall, by an instrument under his hand and seal, declare the choice or appointment of such assignees and their acceptance; and the said instrument shall be executed in duplicate, one of which shall be lodged in the office wherein the other papers in the case are hereinafter required to be finally deposited, and the other shall be delivered to the assignees; and either of such duplicates, purporting to be under such hand and seal, shall be received in all Courts in this Province, as *primâ facie* evidence that the same was executed on the day on which it purports to bear date, and that the assignees named therein were duly chosen and appointed, and accepted the office, and of their authority to bring and defend actions and suits in that character.

Powers of the
assignees un-
der such in-
strument.

XXXI. And be it enacted, that the said instrument, so signed and sealed as aforesaid, shall vest, and be construed to vest in the assignees named therein, all the property of the bankrupt, both real and personal, which he could in any way have lawfully sold, assigned or conveyed, or which might have been taken in execution on any judgment against him at the date of the Commission, although the same

same may then be attached on mesne process as the property of the said bankrupt, and any such attachment shall, by such instrument, be superseded and dissolved; and the said instrument shall vest, and be construed to vest in the assignees named therein, all debts due to the bankrupt, or to any person in trust for him or to his use, all liens and securities therefor, and all the bankrupt's rights of action for any goods or estate, real or personal, and all his rights of redeeming any such goods or estate, and shall give power to the assignees named therein to redeem all mortgages, hypothecs, conditional contracts, pledges and liens of or upon any goods or estate of the bankrupt, or to sell the same subject to such mortgage or other incumbrance; and the bankrupt shall likewise, at the expense of the estate, make and execute all such deeds and writings, and endorse all such bills, notes and other negotiable papers, and draw checks and orders for monies deposited, and do all such other lawful acts and things as the assignees shall at any time reasonably require, and which may be necessary for enabling the assignees to demand, recover and receive all his estate and effects, whether in or out of this Province, and the assignees shall have the like remedy to recover all the said estate, debts and effects, in their own names, as the bankrupt might have had if no commission had issued against him; and if at the date of such commission any suit or action shall be pending in the name of the bankrupt, for the recovery of any debt or other thing, which might or ought to pass to the assignee or assignees, such assignee or assignees, if they desire it, shall be admitted to intervene and become a party to, and to substitute their names for that of the bankrupt, and thenceforth in their own names to prosecute, in like manner and to the like effect, as if the same had been originally commenced by them as such assignees; and in case of the death or removal of any assignee, the surviving or remaining assignee, or the new assignee, as the case may be, shall, upon his application to be admitted to prosecute such suit or action, and to the like effect, as if the same had been originally commenced by him; and if the bankrupt shall die after the date of the said commission, all proceedings shall notwithstanding be continued and concluded in the like manner, and with the same validity and effect as if he had lived; and in that case the allowance to the bankrupt on the net produce of his estate, if any, shall be paid to his executors or administrators, and shall be disposed of and distributed in the same manner as any other property of which he may die possessed.

Estate of bankrupt vested in them.

Redeeming incumbrances.

Bankrupt to perform all necessary acts.

Suits pending, to which the bankrupt is a party.

Death of the bankrupt.

XXXII. And be it enacted, that the assignees shall forthwith give public notice of their election or appointment, in such manner as the Judge or Commissioner shall direct; and shall demand and receive from the Sheriff, and from all other persons, all the estate and property of whatever description in his or their possession, respectively, which shall have been vested or have been intended to be vested in them according to this Act; and they shall collect all the debts and effects

Duties of the assignees.

Collecting debts.

Selling property.

Keeping accounts of the estate.

Paying disbursements.

Referring to arbitration.

How creditors may remove assignees and appoint others.

Power of such new assignees.

effects of the bankrupt, and for that purpose bring all necessary actions in their own names as such assignees, and shall sell and dispose of all the estate and property, real and personal, of the said bankrupt, which shall come to their hands, or over which they shall procure and obtain a power of disposition, on such terms as they shall think best for the interest of the creditors; and shall keep one or more distinct books of account, wherein they shall duly enter all sums of money and other effects which they shall get in or receive out of the said bankrupt's estate, to which books every creditor who shall have proved his debt, or his agent or attorney, shall at all reasonable times have resort to inspect the same; and the assignees shall, as soon as may be after receiving any monies belonging to the bankrupt's estate, deposit the same in some bank in their names as assignees, or otherwise keep the same distinct and apart from all other monies in their possession; and they shall likewise, as far as practicable, keep all the goods and effects belonging to such estate separate and apart from all other goods in their possession, or designated by appropriate marks, so that the monies, goods and effects, of such estate may be easily distinguished from other like things in their possession, and may not be exposed to be taken as their property, or for the payment of their debts; and they shall be allowed to retain out of the monies in their hands all the necessary disbursements made by them in the discharge of their duty; and they shall have power, under the direction of the Judge or Commissioner, to submit any controversy that shall arise in the settlement of any demands against the estate of the bankrupt, or of debts due to his estate, to the determination of one or more arbitrators, to be chosen by the assignees and the other party to such controversy; and the assignees shall likewise have power, under the direction of the Judge or Commissioner, to compound and settle any such controversy by agreement with the other party thereto, as they shall think proper and most for the interest of the creditors; and it shall be in the power of the creditors, by such a vote as is provided in the twenty-sixth section of this Act for the choice of assignees, at any regular meeting called by order of the Judge or Commissioner for that purpose, and called in his discretion, on the application of a majority of the creditors who have proved their debts either in number or value, to remove all or any of the assignees; and upon such removal, or upon any vacancy by death or otherwise, the said creditors may, in manner hereinbefore mentioned, choose other assignees in their place, who shall notify their acceptance, and obtain the same kind of instrument from the Judge or Commissioner, and give notice thereof as the original assignees are required to do; and all the estate of the bankrupt, not before lawfully disposed of, shall forthwith and from thenceforth become vested in such new assignees, as if they had originally been elected or appointed as aforesaid; and the former assignees, and their executors or administrators, shall, on the request and at the expense of the estate in the hands of the new assignees, make and execute to them all such deeds, conveyances and assurances, and do all such

such other acts and things, as may be needful or proper to enable the new assignees to demand, recover, receive, sell and dispose of all the said estate ; and the provisions of this Act shall apply to the survivors, when more than one assignee was originally chosen or appointed, and the others or other shall happen to die.

Death of assignees.

XXXIII. And be it enacted, that whenever the assignee shall deem it advantageous, and for the interest of the bankrupt and of his creditors, to sell any real estate belonging to such bankrupt, it shall be the duty of the Judge or Commissioner, on the application of the assignees to that effect, to appoint a day upon or after which such sale may take place, and the said assignees shall cause an advertisement of the day so appointed to be inserted in the Gazette of Canada, and also in such other newspaper or newspapers, and by such other public notification as the said Judge or Commissioner shall direct, which advertisement shall call upon all persons having or pretending to have any claim to, upon or respecting such real estate, to make known to the Judge or Commissioner the nature and extent thereof, in writing, at least fifteen days before the day so appointed, in order that such claim may be heard and determined upon : Provided, that no sale shall be appointed to take place at a day earlier than the expiration of four calendar months from the first publication of the advertisement thereof in the Gazette of Canada.

What proceedings to be adopted when the assignees are desirous to sell real estate of the bankrupt.

Provido.

XXXIV. And be it enacted, that if any claim to, upon or respecting such real estate, shall be made within the period aforesaid, the Judge or Commissioner shall proceed after necessary proof and hearing of the parties, to adjudge and determine the same ; and if the claim shall be admitted by the Judge or Commissioner in whole or in part, the real estate shall be subject to such claim in whole or in part, as shall have been adjudged and determined, and shall be sold accordingly ; and if no such claim shall be made as aforesaid, or having been made shall be wholly rejected or disallowed, the sale may take place as appointed in manner aforesaid, and the assignees shall have power in their discretion, at any time after the day appointed and notified, to make such sale either by public auction or private bargain, and upon such terms and conditions as to them may seem most advantageous and for the interest of the bankrupt and his creditors ; and every deed or conveyance executed by the assignees, according to the usual form of law, in furtherance and execution of a sale or sales made as aforesaid, shall have the like force and effect in avoiding claims or incumbrances on the real estate so conveyed, as if the sale and deed or conveyance had been made by a Sheriff under the authority of a writ of execution against lands and tenements issuing out of any Court of Common Law in this Province ; Provided always, that an appeal shall lie to the proper Court of Review against any adjudication

Claims upon real estate determined, and titles from assignees rendered effectual.

Provido.

or

or determination of the said Judge or Commissioner, by the assignees of the bankrupt, or by the party setting up any such claim to, upon or respecting such estate as aforesaid.

Debts owing
by the bank-
rupt may be
proved, al-
though the
term of credit
be not expired.

Claims of the
bankrupt's
wife.

Claims for
goods wrong-
fully detained.

Mutual credit.

Creditors se-
cured by privi-
lege on pro-
perty.

XXXV. And be it enacted, that all debts due and payable by any bankrupt, at the date of the commission against him, may be proved and allowed against his estate, and all debts then absolutely due, although not payable until afterwards, may be proved and allowed as if payable presently, with a discount or rebate of interest, when no interest is payable by the contract until the time when the debt would become payable; and all monies due by any bankrupt, on any bottomry or *respondentia* bond, or on any policy of insurance, may be proved and allowed, in case the contingency or loss should happen before the declaring of the first dividend, in like manner as if the same had happened before the date of the commission; and in case the bankrupt shall be liable for any debt, in consequence of having made or indorsed any bill of exchange or promissory note before the date of the commission, or in consequence of the payment by any party to any bill or note of the whole, or any part of the money secured thereby, or of the payment of any sum of money by a surety of the bankrupt in any contract whatsoever, although such payment shall in either case be made after the date of the commission, provided it be made before the declaring of the first dividend, such debt shall be considered, for all the purposes of this Act, as contracted at the time when such bill or note, or other contract, shall have been so made or indorsed, and may be proved and allowed as if the said debt had been due and payable by the bankrupt before the date of the commission; and also any claim or demand by or in right of the wife of the bankrupt, founded on her contract of marriage with the bankrupt, and which is valid as against creditors, according to the laws of the part of this Province where such contract was made, or for or in relation to her separate property; and all demands against the bankrupt, for or on account of any goods or chattels wrongfully obtained, taken, or withheld by him, may be proved and allowed to the amount of the worth of the property, and no debt other than those above mentioned shall be proved or allowed against the estate of any bankrupt; and when it shall appear that there has been mutual credit given by the bankrupt and any other person, or mutual debts between them, the account between them shall be stated, and one debt shall be set off against the other, and the balance of such account, and no more, shall be allowed and paid on either side respectively; and when any creditor shall have any hypothec or mortgage, lien or security, upon or of any real estate of the bankrupt at the date of the commission, or any pledge of, or lien on any personal property of the bankrupt, for securing the payment of any debt claimed by him, the property, real or personal, so liable or held as security, shall, if he require it, be sold, and the proceeds shall be applied towards the payment of his debt, and he shall be admitted as a creditor

tor for the residue thereof, if any, and such sale shall be made in such manner as the Judge or Commissioner shall order, and the creditor and assignee, respectively, shall execute all such deeds and papers as may be necessary or proper for effecting the conveyance; and if the creditor shall not require such sale, and join in effecting the conveyance, he may release and deliver up to the assignee the premises so held as security, and shall thereupon be admitted as a creditor for the whole of his said debt; and if the said property shall not be either sold or released, and delivered up as aforesaid, the creditor shall not be allowed to prove any part of his debt secured thereby.

XXXVI. And be it enacted, that the Judge or Commissioner shall have full power, by writing under his hand, to summon any witness to be examined on oath (to be taken before him) touching and concerning the several matters which may arise in any case in bankruptcy, and to enforce the attendance of and to compel such witness to answer, by the like means, and to the same extent, as may be used or done in any of the Superior Courts of Record.

Commissioner to have power to summon and enforce the attendance of witnesses.

XXXVII. And be it enacted, that all conveyances and contracts, and other dealings and transactions by and with any bankrupt, *bonâ fide* made and entered into before the date of the commission against him, and all executions against the lands and tenements, goods and chattels of such bankrupt, *bonâ fide* executed and levied before the date of such commission shall be valid, notwithstanding any act of bankruptcy by him committed: Provided the person so dealing with such bankrupt, or at whose suit or on whose account such execution issued, had not at the time of such conveyance, contract, dealing or transaction, or at the time of levying such execution, notice of any act of bankruptcy before then committed by such bankrupt.

Conveyances, &c. made *bonâ fide* by the bankrupt before the commission to be valid.

XXXVIII. And be it enacted, that all payments *bonâ fide* made by any bankrupt or any person on his behalf, before the date of the commission, to a creditor of such bankrupt, (such payment not being a fraudulent preference of the creditor,) shall be deemed valid, notwithstanding any prior act of bankruptcy by such bankrupt committed; and all payments *bonâ fide* made to any bankrupt before the date of the commission, shall be deemed valid notwithstanding any prior act of bankruptcy by such bankrupt committed, and the creditor shall not be liable to refund the sum to the assignee, or the debtor of the bankrupt to make re-payments to the assignee, provided they respectively had not, at the time of such payment, notice that such act of bankruptcy had been committed.

Payments *bonâ fide* made to the bankrupt before the commission to be valid.

XXXIX. And be it enacted, that no revendication of goods, sold and delivered to the bankrupt without day or term of payment shall be allowed to the vendor thereof,

Goods sold to the bankrupt without term of payment.

thereof, by reason of the non-payment of the price of the same ; nor shall the vendor of any goods be entitled to claim a preference on the proceeds of such goods for the price thereof, by reason of their being in the possession of the bankrupt at the time of the bankruptcy, in the same state and condition as when sold to him ; but the vendor may, in case of the failure of the purchase, stop *in transitu* or reclaim the goods sold by him, and the price of which has not been paid to him, as may, under similar circumstances, be done according to the law of England, and not otherwise.

Second meet-
ing.

XL. And be it enacted, that the Judge or Commissioner shall appoint a second general meeting of the said creditors, to be held at such time, not more than three months after the date of the commission, as such Judge or Commissioner shall think fit, regard being had to the distance at which the creditors or any of them reside, at which meeting any creditors who have not before proved their debts shall be allowed to prove the same, which shall be allowed, and a list thereof made, certified and filed in like manner as is provided in respect of debts proved at the first meeting ; and the bankrupt shall there be allowed to amend the schedule of his creditors, and to correct any mistake therein, and he shall then make and subscribe an oath, before the Judge or Commissioner, which shall be certified by him and filed in the case, in substance as in the Schedule (F.) to this Act annexed ; and the bankrupt shall then also submit to such further examination on oath as the Judge or Commissioner shall see fit to require.

Schedule to
be amended
and attested
on oath.

Creditors may
compound
with the bank-
rupt after the
second general
meeting and
supersede the
commission of
bankruptcy.

XLI. And be it enacted, that if at such second general meeting of the said creditors, and after the creditors who may not have proved their debts at the first general meeting, have been allowed to prove, and have proved the same, and the bankrupt has taken and subscribed the oath herein-before prescribed, and submitted to such examination as aforesaid, two thirds of the creditors in number and value agree to compound with the said bankrupt, such agreement shall be valid and effectual to all intents and purposes according to the tenor thereof, and equally binding upon the remaining third of the creditors aforesaid, and shall have the effect of superseding the said commission of bankruptcy from the date of such agreement, and the jurisdiction of the said Judge or Commissioner over the estate and effects of the said bankrupt, shall thenceforth cease and determine.

A clerk to be
appointed.

His duty.

XLII. And be it enacted, that the Judge or Commissioner, at the commencement of the proceedings in each case under this Act, shall appoint a clerk, who shall sign a declaration in writing that he will faithfully discharge his duty, and who shall keep a record of all the regular meetings of the creditors, and of all the proceedings thereat, and shall preserve all papers duly filed in the course of the proceedings, and shall perform such other duties appertaining to his office as shall be

be prescribed by the Judge or Commissioner, and the record of proceedings in each case and of the certificate of discharge ; and all papers so filed shall, at the termination of the proceedings, be deposited, together with a list thereof, in the office hereinafter appointed, and shall be there preserved ; and the Judge or Commissioner may remove such clerk, and appoint another in his place ; and the copies of the same proceedings, so returned and filed, or of any part thereof, duly certified by the officer in whose custody they shall be deposited, shall in all cases be admissible as evidence *primâ facie* of the facts therein stated and contained, in all Courts in this Province.

Proceedings
and papers,
how preserved.

Their effect
as evidence.

XLIII. And be it enacted, that the Judge or Commissioner shall attend and preside at all meetings of the creditors, and shall regulate the proceedings thereat, and may adjourn any meeting from time to time, as occasion shall require ; and all things done at any such adjourned meeting shall be of the like force and effect as if done at their original meeting.

Judge or
commissioner
to preside at
meetings, and
may adjourn.

XLIV. And be it enacted, that when two or more persons, who are partners in trade, become bankrupt, a commission may be issued in the manner provided in this Act, upon which all the joint stock or property of the firm, and also all the separate estate of each of the partners shall be taken, excepting such parts thereof as may be by law exempted from attachment ; and all the creditors of the firm, and the separate creditors of each partner, shall be allowed to prove their respective debts ; and the assignees in such case shall be chosen by the creditors of the firm, and they shall keep distinct accounts of the property of the firm, and of the separate estates of each partner thereof, and after deducting, out of the whole amount received by the assignees, the whole of the expenses and disbursements paid by them, the net proceeds of the partnership estate shall be appropriated to pay the creditors of the firm, and the net proceeds of the separate estates of each partner shall be appropriated to pay his separate creditors ; and if there shall be any balance of the separate estate of any partner after payment of his debts, such balance shall be added to the proceeds of the partnership estate, if necessary for the payment of the creditors of the firm ; and if there shall be any balance of the partnership estate, after payment of the debts of the firm, such balance shall be appropriated among the separate estates of the respective partners, according to their rights and interests therein, and as it would have been if the partnership had been dissolved without any bankruptcy, and the sum so appropriated to the separate estate of any partner shall be applied to the payment of his separate debts.

Provisions
in cases where
partners be-
come bank-
rupts.

Rights of the
creditors of the
firm, and of
those of each
partner.

XLV. And be it enacted, that if the assignees commence any action or suit for any money due to the bankrupt's estate, before the time allowed by this Act for the

Provision in
cases of suit
before the

bankrupt has
disputed the
commission.

the bankrupt to dispute the commission shall have elapsed, the defendant in any such action or suit shall be entitled, after notice given to the assignees, to pay the same or any part thereof into the Court in which such action or suit is brought, and with the costs of suit up to that time, and all proceedings with respect to the money so brought into Court, shall thereupon be stayed; and after the time aforesaid shall have elapsed, the assignees shall have the money paid to them out of Court.

Wages or
salary due to
clerks or ser-
vants.

XLVI. And be it enacted, that when any bankrupt shall have been indebted, at the date of the commission against him, to any servant or clerk of such bankrupt, in respect of his wages or salary, it shall be lawful for the Judge or Commissioner, upon proof thereof, to order so much as shall be due as aforesaid, not exceeding twelve months, wages or salary, to be paid to such servant or clerk out of the estate of such bankrupt, and such servant or clerk shall be at liberty to prove, under the commission, for any sum exceeding such twelve months' wages or salary.

Wages due
to workmen
and labourers.

XLVII. And be it enacted, that when any bankrupt shall have been indebted, at the date of the commission against him, to any labourer or workman of such bankrupt in respect of his wages, it shall be lawful for the Judge or Commissioner, upon proof thereof, to order so much as shall be so due as aforesaid, not exceeding one month's wages or labour, to be paid to such workman or labourer out of the estate of such bankrupt, and such workman or labourer shall be at liberty to prove, under the commission, for any sum exceeding such one month's wages.

Rent due by
the bankrupt.

XLVIII. And be it enacted, that no distress for rent made or levied after an act of bankruptcy, upon the goods or effects of any bankrupt, (whether before or after the issuing of the commission,) shall be available for more than twelve months' rent accrued prior to the date of the commission, but the landlord, or party to whom the rent shall be due, shall be allowed to come in as a creditor under the commission for any overplus of the rent due, and for which the distress shall not be available.

Power to
search for con-
cealed property
of a bankrupt.

XLIX. And be it enacted, that in all cases where it shall be made to appear to the satisfaction of any Judge or Commissioner authorized to issue a commission of bankruptcy, that there is reason to suspect and believe that property of any bankrupt is concealed in any house, premises or other place not belonging to such bankrupt, such Judge or Commissioner is hereby directed and authorized to grant a search warrant to the Sheriff of the District, and it shall be lawful for such Sheriff, or his Deputy or other officer, to execute such warrant, according to the tenor thereof, and the Sheriff, or other officer employed by him to execute such warrant, shall

shall be entitled to the same protection as is allowed by law in execution of a search warrant for property reputed to be stolen or concealed.

L. And be it enacted, that if any bankrupt, after the commencement of this Act, shall at the time of his bankruptcy be a member of a firm, it shall be lawful for the Judge or Commissioner by whom the commission of bankruptcy is issued, to authorize the assignee to commence or prosecute any action at law or suit in equity, in the name of such assignee and of the remaining partner, against any debtor of the partnership, and to obtain such judgment or decree or order therein, as if such action or suit had been instituted with the consent of such partner, and if such partner shall execute any release of the debt or demand, such release shall be void: Provided, that every such partner, if no benefit is claimed by him in virtue of the said proceedings, shall be indemnified against the payment of any costs in respect of such action or suit, and it shall be lawful for the Judge or Commissioner, on the application of such partner, to direct that he may receive so much of the proceeds of such action or suit, as such Court shall direct.

Case of bankrupts who, at the time of their bankruptcy, shall be members of a firm, provided for.

LI. And be it enacted, that if any bankrupt (being within this Province at the date of the commission) shall not, before three o'clock of the afternoon of the day appointed for the first meeting of his creditors, after notice thereof in writing, to be left at the usual place of abode of such bankrupt, or personal notice, in case such bankrupt be then in prison, and notice given in the Gazette of the commission, appear before such Judge or Commissioner, and submit to be examined before him from time to time upon oath, or if any such bankrupt, upon such examination, shall not discover all his real or personal estate, and how and to whom, upon what consideration, and when he disposed of, assigned or transferred, any of such estate, and all books, deeds, papers and writings, relative thereto, (except such part as shall have been really and *bonâ fide* before sold or disposed of in the way of his trade, or laid out in the ordinary expenses of his family,) or if any such bankrupt shall not, upon such examination, deliver up to the Judge or Commissioner all such part of his estate, and all books, deeds, papers and writings relating thereunto, as shall still remain in his possession, custody or power, (except the necessary wearing apparel of himself, his wife and children,) or if any such bankrupt shall remove, conceal or embezzle any part of such estate, of the value of ten pounds or upwards, or any books of account, deeds, papers, or other writings relating thereto, with intent to defraud his creditors, every such bankrupt shall be deemed guilty of felony, and being convicted thereof, shall be liable, in the discretion of the Court, to be imprisoned with or without hard labour in any common Gaol, for a term not to exceed one year, or in the Provincial Penitentiary for any term not less than three nor more than five years.

Punishment of bankrupts neglecting to appear, or fraudulently concealing their property, books, &c.

LII.

Commissioner
may enlarge
the time for ap-
pearing.

LII. And be it enacted, that the Judge or Commissioner shall have power, as often as he shall under the circumstances of any case think fit, from time to time to enlarge the time named for such bankrupt appearing, for so long and until such further day as the Judge or Commissioner shall reasonably appoint, so as every such order of enlargement be made six days at least before the day on which such bankrupt was to appear.

Power to cause
any bankrupt
in person to be
before the
Commissioner,
&c.

LIII. And be it enacted, that if the bankrupt shall be in prison either on mesne process or in execution, in any suit or proceeding for or on account of any debt or demand whatever, proveable against his estate, at any time when his attendance may be required before the Judge or Commissioner, or the assignees, or at any meeting of his creditors, as provided in this Act, the said Judge or Commissioner may in his discretion, by warrant under his hand and seal, require the Sheriff or Gaoler, in whose custody the said bankrupt may be, to produce such bankrupt for the purposes aforesaid, at such time and place as may be specified in the warrant; and in case the bankrupt shall, by reason of imprisonment or sickness, or any other cause which shall be deemed sufficient by the Judge or Commissioner, be unable to attend before him or before the assignees, at any meeting of his creditors as provided in this Act, then such Judge or Commissioner, or some person deputed by him, shall attend to take the examination of the bankrupt, and the examination thus taken shall be of the same force and effect as if the bankrupt had attended in person before the Judge or Commissioner, or the assignees, or at the meeting aforesaid, and had undergone the same examination; and if the bankrupt shall be without this Province, and shall be unable to return and give his personal attendance at the first meeting of his creditors, or at the other times, and for the purposes in this Act set forth, and if it shall appear that such absence was not occasioned by any wilful default of the bankrupt, and he shall, as soon as may be after the removal of the impediment, attend on some day subsequent to the one first named, which shall have been appointed by the Judge or Commissioner under the foregoing sections of this Act, and submit to the examination, and do and perform all other things by this Act required, then such bankrupt shall not incur the penalty and punishment in the fifty-first section of this Act contained, and shall be entitled to his certificate in like manner as if he had appeared and conformed at the time first appointed.

Bankrupt
prevented by
sickness from
attending.

Bankrupt ab-
sent from the
Province.

Punishment
of bankrupt
fraudulently
altering his
books, &c.

LIV. And be it enacted, that if any bankrupt shall after an act of bankruptcy committed, or in contemplation of bankruptcy, or with intent to defeat the object of this Act, have destroyed, altered, mutilated or falsified any of his books, papers, writings or securities, or made or been privy to the making of any false or fraudulent entries in any book of account or other document with intent to defraud his creditors, every such bankrupt shall be deemed to be guilty of a felony, and being convicted

convicted thereof, shall be liable, in the discretion of the Court, to be imprisoned, with or without hard labour, in any common Gaol for a term not to exceed one year, or in the Provincial Penitentiary for any term not less than three nor more than five years.

LV. And be it enacted, that if any bankrupt shall, within three months next preceeding the date of the commission against him, under the false colour or pretence of carrying on business or dealing in the ordinary course of trade, have obtained on credit from any other person, any goods or chattels, with intent to defraud the owner thereof, or if any such bankrupt shall, within the time aforesaid, with such intent, have removed, concealed or disposed of any goods or chattels so obtained, knowing them to have been so obtained, every such person so offending shall be deemed to be guilty of a misdemeanor, and being convicted thereof, shall be liable to imprisonment in any common Gaol in this Province, for any term not exceeding one year, as the Court before whom he shall be tried shall think fit.

Punishment of bankrupt fraudulently obtaining credit immediately before his bankruptcy.

LVI. And be it enacted, that every person who, in any examination before a Commissioner, Judge, or any person lawfully deputed by him, or in any affidavit or deposition authorized or directed by this Act, shall wilfully and corruptly swear or affirm falsely, shall, on conviction thereof, suffer the pains and penalties in force in this Province against wilful and corrupt perjury.

False swearing or affirmation to be deemed perjury.

LVII. And be it enacted, that the several Judges and Commissioners authorized to issue commissions of bankruptcy, and to act in the prosecution thereof, shall be auxiliary to each other for the proof of debts, and for the examination of witnesses on oath, or for either of such purposes; and the Judge or Commissioner so acting as auxiliary in the prosecution of a commission of bankruptcy in the examination of witnesses, shall possess the same powers to compel the attendance of, and to examine witnesses, and to enforce both obedience to such examination, and the production of books, deeds, papers, writings and other documents, as are possessed by the Judge or Commissioner issuing such commission: Provided always, that all such examinations of witnesses shall be taken down in writing, and shall be annexed to and form part of the proceedings under such commission, and that no proof of debts or examination of witnesses, in the prosecution of any commission, shall be taken by any such auxiliary authority, without the permission in writing of the Judge or Commissioner by whom such commission was issued.

Judges and commissioners to be auxiliary to each other in prosecuting proceedings in bankruptcy.

Proviso.

LVIII. And be it enacted, that nothing in this Act contained shall prevent any Judge or Commissioner, when two or more persons who are partners in trade as

What proceedings may be adopted where there

are parties residing in different Districts.

a firm, reside in different Districts in this Province to that in which any commission of bankruptcy shall be prosecuted against such firm, from having jurisdiction over the said partner resident beyond the District for which he is appointed, as far as it relates to the interest or share of such partner in such firm, if such partner be included in such commission; and it shall and may be lawful for the Judge or Commissioner for the District in which any such other partner shall reside, to take and receive any examination or declaration, administer any oath or affirmation, or otherwise take such proceedings in respect to such partner as may be taken, received or administered by the Judge or Commissioner of the District in which the original proceedings in bankruptcy against the said firm shall have been prosecuted: Provided always, that all such examinations, declarations, oaths, affirmations or other such proceedings, shall be taken down in writing, and be transmitted to the Judge or Commissioner by whom such commission shall have been issued, to be by him annexed to and form part of the said commission: And provided also, that all such proceedings shall have been so taken with the permission and under the authority in writing of the Judge or Commissioner by whom such commission was issued.

Effect of the certificate to be granted to a bankrupt.

LIX. And be it enacted, that every bankrupt, who shall have duly appeared, and made a full disclosure and delivery of all his estate and effects, and in all things conformed himself to the provisions of this Act, shall be discharged from all debts due by him at the date of the commission, and from all claims and demands made proveable under the commission, in case he shall obtain a certificate from the Judge or Commissioner under his hand and seal, in the form of the Schedule (G) to this Act annexed, subject to such provisions as are hereinafter mentioned; and no such certificate shall release or discharge such bankrupt from such debts, claims or demands, unless the same shall be obtained, allowed and confirmed, according to such provisions: Provided always, that no such certificate shall release or discharge any person who was partner with such bankrupt at the time of his bankruptcy, or was then jointly bound, or had made any contract jointly with such bankrupt, if such partner or, or person so jointly bound or liable with such bankrupt, has not been included in such commission of bankruptcy: And provided always, that such Judge or Commissioner may in his discretion grant such certificate to any one or more partners or persons so jointly bound or liable, and refuse or suspend the same as hereinafter mentioned as to any other partner or person so jointly bound or liable.

Proviso.

Cases in which no certificate shall be granted, or shall be void if granted.

LX. And be it enacted, that no bankrupt shall be entitled to his certificate, and that any such certificate, if obtained, shall be void, if such bankrupt shall have lost, by any sort of gaming or wagering in one day twenty pounds, within one year next preceding the date of the commission against him, or one hundred pounds

pounds within that year, or if such bankrupt shall, after an act of bankruptcy, or in contemplation of bankruptcy, or with intent to defeat the object of this Act, have concealed, destroyed, altered, mutilated or falsified, or caused to be concealed, destroyed, altered, mutilated or falsified any of his books, papers, writings or securities, or made, or been privy to the making of any false or fraudulent entry in any book of account or other document, with intent to defraud his creditors, or shall have concealed any part of his property, or if any person having proved a false debt under the commission, such bankrupt being privy thereto, or afterwards knowing the same, shall not have disclosed the same to his assignees within one month after his knowledge.

LXI. And be it enacted, that it shall be lawful for the Judge or Commissioner, by whom the commission was issued, to appoint a public sitting for the allowance of such certificate to the bankrupt named in such commission, (whereof, and of the purport whereof, twenty-one days notice shall be given in manner to be directed by such Judge or Commissioner, and a copy of such notice shall be served on one of the assignees or on their Solicitor,) and at such sitting any of the creditors of such bankrupt may be heard against the allowance of the certificate, and the Judge or Commissioner shall consider any objection against allowing such certificate, and either find the bankrupt entitled thereto, and allow the same, or refuse or suspend the allowance thereof, or annex such condition thereto, as the justice of the case may require: Provided always, that no certificate shall be such discharge, unless such Judge or Commissioner shall, in writing under his hand and seal, certify to the proper Court of Review that such bankrupt has made a full discovery of his estate and effects, and in all things conformed as aforesaid, and that there does not appear any reason to doubt the truth or fulness of such discovery, nor unless the bankrupt make oath in writing that such certificate was obtained fairly and without fraud, nor unless the allowance of such certificate shall, after such oath, be confirmed by the Court of Review, against which confirmation any of the creditors of the bankrupt may be heard before such Court.

LXII. And be it enacted, that any contract or security made or given by any bankrupt or other person, unto or in trust for any creditor, or for the securing the payment of any money due by such bankrupt at his bankruptcy, as a consideration or with intent to persuade such creditor to forbear opposing, or to consent to the allowance or confirmation of such certificate, shall be void, and the money thereby secured or agreed to be paid shall not be recoverable.

LXIII. And be it enacted, that if any creditor of a bankrupt shall obtain any sum of money, or any goods, chattels, or security for money, from any person as an inducement for forbearing to oppose, or for consenting to the allowance or confirmation

Meeting for
allowance of
certificate.

Creditors op-
posing its being
granted.

Proviso—
Conditions on
which the cer-
tificate shall
operate as a
discharge.

Contracts
made for brib-
ing not to op-
pose the cer-
tificate, to be
void.

Penalty on
creditor obtain-
ing money, &c.
for fraudulent-
ly conniving at
the obtaining a
certificate.

firmation of the certificate of such bankrupt, every creditor so offending shall forfeit and lose for every such offence the treble value or amount of such money, goods, chattels or security, so obtained, as the case may be.

Discharge of the bankrupt who shall be sued, &c. on any debt contracted before the Commission, provided for.

LXIV. And be it enacted, that any bankrupt who shall, after his certificate shall have been confirmed, be arrested, or have any action brought against him for any debt, claim or demand, proveable under the commission against such bankrupt, shall be discharged on entering common bail or common appearance, and may plead in general that the cause of action accrued before he became bankrupt, and may give this Act and the special matter in evidence; and such bankrupt's certificate, and the confirmation thereof, shall be sufficient evidence of the trading, bankruptcy, commission, and other proceedings precedent to the obtaining such certificate; and if any such bankrupt shall be taken in execution, or detained in prison for such debt, claim or demand, when judgment has been obtained before the confirmation of his certificate, it shall be lawful for any Judge of the Court, wherein judgment has been so obtained, on such bankrupt's producing his certificate, to order any officer who shall have such bankrupt in custody by virtue of such execution, to discharge such bankrupt without exacting any fee, and such officer shall be hereby indemnified for so doing.

Promise to pay any debt from which the bankrupt is discharged by certificate, invalid, unless in writing.

LXV. And be it enacted, that no bankrupt, after his certificate shall have been confirmed under any commission of bankruptcy, shall be liable to pay or satisfy any debt, claim or demand from which he shall have been discharged by virtue of his certificate, or any part of such debt, claim or demand, upon any contract, promise or agreement, made or to be made after the date of the commission, unless such promise, contract or agreement, be made in writing, signed by the bankrupt, or by some person thereto lawfully authorized in writing by such bankrupt.

Meeting of creditors to be called by the assignees.

LXVI. And be it enacted, that the assignees shall, at such time as shall be appointed by the Judge or Commissioner, within six months from their appointment, call a meeting of all the creditors of the bankrupt, by a notice to be published in such manner as the Judge or Commissioner shall direct, at which meeting the creditors, who have not before proved their debts, shall be allowed to prove the same; and the assignees shall produce to the Judge or Commissioner and the creditors then present, fair and just accounts of all their receipts and payments, touching the estate of the bankrupt, and shall, if required by the Judge or Commissioner, be examined on oath as to the truth of such accounts, and the Judge or Commissioner shall thereupon make an order in writing under his hand for a dividend of the said estate and effects, or of such parts thereof as he shall think fit, among such of the creditors of the said bankrupt as shall have proved their debts, in proportion to their respective debts, which order shall be recorded with the other proceedings

Account of assignees.

Dividend.

proceedings in the case : Provided always, that all debts due by the bankrupt to Her Majesty, or to any person who, by the laws of any part of this Province, are, or may be entitled to a priority or preference with respect to such debts out of the estate of the bankrupt, shall have the benefit of such priority or preference in like manner as if this Act had not been passed : and if, at the time of ordering such dividend, it shall appear to the Judge or Commissioner probable that there are just claims against the estate, which, by reason of the distant residence of the creditors, or for other sufficient reasons, have not been proved, but, nevertheless may be, the Judge or Commissioner shall, in ordering such dividend, leave in the hands of the assignees a sum sufficient to pay to every such creditor a proportion equal to what shall be then paid to other creditors, which sum shall remain thus unappropriated in the hands of the assignees until the final dividend shall be declared, or until the Judge or Commissioner shall order its distribution.

Proviso, debts to the crown, privileged debts, and debts to absent creditors who have not proved.

LXVII. And be it enacted, that the said assignees shall, at such time as shall be appointed by the Judge or Commissioner, within eighteen months after the appointment of the assignees, make a second dividend of the said estate, in case the same was not wholly distributed upon the first dividend, and shall give notice of a meeting for that purpose of all the creditors of the bankrupt, in such manner as the Judge or Commissioner shall direct ; at which meeting the creditors, who have not before proved their debts, shall be allowed to prove the same, and the accounts of the assignees shall then be produced and examined, as provided in the preceding section, and shall be settled by the Judge or Commissioner, and what, upon the balance thereof, shall appear to be in their hands, shall, by a like order of the Judge or Commissioner, be divided among all the creditors who shall then have proved their debts, in proportion to their respective debts, subject to the provision hereinafter contained respecting any allowance to bankrupts : Provided, that no creditor, whose debt shall be proved at the second, or any after dividend, shall be allowed to disturb any prior dividend, but he shall be paid so far only as the funds remaining unappropriated in the hands of the assignees shall be sufficient therefor ; and if, at the time of appointing the meeting for the said second dividend, there shall remain in the hands of the assignees any outstanding debts, or other property, due or belonging to the estate, which cannot, in the opinion of the Judge or Commissioner, be collected and received by the assignees without unreasonable or inconvenient delay, the assignees may, under the direction of the Judge or Commissioner, sell and assign such debts or other property in such manner as the Judge or Commissioner shall direct ; and such second dividend shall be final, unless any suit relating to the estate be then depending, or any part of the estate be outstanding, or unless some other estate or effects of the said bankrupt shall afterwards come to the hands of the assignees, in which cases another dividend shall be made, by order of the Judge or Commissioner, in man-

Second dividend.

Proviso—
'Subsequent dividends not to disturb former ones.

Second dividend to be final.

ner

Exception.
Debts may be
proved at any
regular meet-
ing.

ner hereinbefore provided, and further dividends shall be made in like manner as often as occasion shall require; and at every regular meeting of the creditors those who have not before proved their debts shall be allowed to prove the same, and if, after payment of all debts proved as aforesaid, any surplus shall remain in the hands of the assignees, the same shall be paid or re-conveyed to, or revest in the bankrupt or his legal representatives.

Courts of Re-
view constitu-
ted.

Their powers.

Decision of
such Courts
shall be final.

LXVIII. And be it enacted, that the Court of Chancery in and for that part of the Province formerly Upper Canada, and the several Courts of King's Bench in and for the Districts of Quebec, Montreal, Three Rivers and Saint Francis, shall be, each within their respective jurisdictions, Courts of Review in cases and matters of bankruptcy, and may, from time to time, and at all times within such their jurisdictions, make general rules and orders for regulating the forms of proceedings and the practice to be observed and the costs to be allowed when not otherwise provided for by this Act in all cases of bankruptcy, and shall also have full power and authority to entertain, hear and determine, and make all necessary orders in all appeals from the several Judges of the District Courts, and from the Commissioners aforesaid, in matters of bankruptcy, in cases arising, pending or determined within the respective jurisdictions of the said Court of Chancery, and the said several Courts of King's Bench, and to allow such costs of appeal as to them shall seem fit, and that appeals as aforesaid shall respectively lie from the said Judges and Commissioners, and their judgments, adjudications and orders, at the instance of any creditor or of the assignees of any bankrupt, and the decision of such Court of Review shall be final.

Before whom
affidavits re-
quired under
this Act may
be sworn.

LXIX. And be it enacted, that all affidavits to be made or used in matters of bankruptcy or under this Act, shall and may be sworn before any Judge of a Court of Record in this Province, or any Clerk or Officer of such Court otherwise authorized to administer oaths, or before any Commissioner appointed for taking affidavits in any of such Courts, or before any Master or Master Extraordinary in Chancery, or before any Commissioner of Bankrupts, if such affidavits be sworn by a creditor or other person residing within this Province, or if elsewhere then before any Judge of a Superior Court of Record, or Notary, and attested by the Mayor, or other Chief Magistrate of any City, Town or Place, or a British Minister, Consul or Vice-Consul.

Matters may
be sworn to,
either *vivâ vo-*
ce or by affida-
vit in writing.

LXX. And be it enacted, that the said several Judges of the District Courts, and the Commissioners of Bankruptcy, and the said several Courts of Review, may, in all matters within their respective jurisdiction, have power to take the whole or any part of the evidence in any matter of bankruptcy before them, either *vivâ voce* on oath, or upon affidavits or depositions to be sworn as aforesaid.

LXXI.

LXXI. And be it enacted, that the said several Judges and the Commissioners aforesaid, may award in all matters before such Courts, respectively, such costs as to them shall seem fit and just, subject to the power of the Courts of Review hereinbefore contained; and in all cases in which costs shall be so awarded against any person, it shall and may be lawful for such Judge or Commissioner to cause such costs to be recovered from such person, in the same manner as costs awarded by a rule of any of the Superior Courts in this Province may be recovered; and that the like remedies may be had upon an order of such Court for costs, as upon a rule of any of the said Superior Courts for costs.

What costs may be allowed, and how recovered.

LXXII. And be it enacted, that every commission of bankruptcy issued under this Act, and the proceedings thereunder, or any part of such proceedings, or copies, or minutes of every such commission and proceedings, or part thereof, as and in such form and at such time as the Court of Review, having jurisdiction in the particular case, shall by any order from time to time direct, shall be transmitted by the Judge or Commissioner who issued such commission to such Court of Review, to be there filed and kept among the records of that Court.

Commissions of bankruptcy, &c. to be filed of Record in the Courts of Review.

LXXIII. And be it enacted, that a certain Ordinance of the Legislature of Lower Canada concerning bankrupts, passed in the second year of Her Majesty's reign, intituled, *An Ordinance concerning bankrupts, and the administration and distribution of their estates and effects*, shall be, and the same is hereby repealed, upon, from and after the day that this Act shall come into operation: Provided always, that nothing herein contained shall render invalid any proceedings which may have been had under any commission or warrant in bankruptcy now subsisting, or which shall have been issued before this Act shall come into operation or effect, or lessen any right, claim, demand or remedy, which any person now has thereunder, or upon or against any bankrupt against whom such commission or warrant has or shall have issued as aforesaid, but that all such proceedings shall be completed as if this Act had not been passed, except as herein especially provided.

Ordinance L. C. 2 Vict. (3) c. 36, repealed.

Proviso.

LXXIV. And be it enacted, that the certificate of discharge obtained by any bankrupt, from any of the Commissioners acting under the Ordinance herein before recited, and by this Act repealed, at any time prior to the passing of this Act, or under any commission or warrant in bankruptcy now subsisting, or which shall have been issued before this Act shall come into operation or effect, shall, from and after the passing of this Act, be deemed valid and effectual as a discharge to such bankrupt throughout this Province, from all debts due by him at the date of such commission, and made proveable under such commission.

Former certificates of discharge to be valid throughout the Province.

LXXV.

What laws
observed in ca-
ses otherwise
unprovided for.

LXXV. And be it enacted, that in all questions not otherwise provided for the laws of Upper Canada and of Lower Canada, respectively, shall be resorted to as the rule of decision in all questions respecting Bankrupts, as the said laws now respectively obtain in each section of the Province, and in cases unprovided for in the existing laws above-mentioned, then resort shall be had to the laws of England, as such rule of decision in that part of this Province heretofore Upper Canada, and that only.

Allowance to
bankrupts.

Paying 10s in
the pound.

Paying 12s 6d
in the pound.

Paying 15s in
the pound.

Proviso.

Paying less
than 10s. in the
pound.

Allowance to
partners be-
coming bank-
rupts.

LXXVI. And be it enacted, that every bankrupt who shall have obtained his certificate and the confirmation thereof, if the net produce of his estate in hand (with or without prior dividend) pay the creditors who, before or at the time of making such order, have proved debts under the commission, ten shillings in the pound, shall be allowed and paid five per centum out of the produce, provided that such allowance shall not exceed two hundred and fifty pounds; and every such bankrupt, if such produce shall (with or without prior dividend) pay such creditors twelve shillings and six pence in the pound, shall be allowed and paid seven pounds and ten shillings per centum, provided such allowance shall not exceed the sum of three hundred and twenty-five pounds; and every such bankrupt, if such produce shall (with or without prior dividend) pay such creditors fifteen shillings in the pound or upwards, shall be allowed and paid as aforesaid ten per centum, provided such allowance shall not exceed four hundred pounds, provided that no such allowance be made without an application to the Judge or Commissioner, and notice given to the assignees; and that such Judge or Commissioner, after hearing both parties, may make such order, not exceeding the foregoing provision, as he shall see fit, subject to the decision of the Court of Review: And provided always, that such allowance shall not be payable to any bankrupt until after the expiration of twelve months from the date of the commission, and such allowance shall then be payable only in the event of the dividends, paid to the creditors who at any time before the expiration of such twelve months shall have proved debts under the commission, being of the requisite amount in that behalf aforesaid; and if, at the expiration of such term, the dividend paid as aforesaid shall not amount to ten shillings in the pound, it shall be lawful for the Judge or Commissioner to allow the bankrupt so much as he and the assignees shall agree upon, not exceeding three per centum, or one hundred and fifty pounds.

LXXVII. And be it enacted, that in all commissions against the joint and separate estates of partners, any partner who shall obtain his certificate as a bankrupt shall, if a sufficient dividend shall have been paid upon the separate estate of such partner, be entitled to his allowance, although his other partner or partners may not be entitled to any allowance.

LXXVIII.

LXXVIII. And be it enacted, that every bankrupt duly appearing, attending and conforming, according to the provisions of this Act, shall receive from the assignees ten shillings per day, for each day's attendance on the Judge, Commissioner or assignees, when required, and shall also be allowed, for the necessary support of himself and his family, a sum not exceeding twenty shillings per week for each member of his family, and for such time, not exceeding two months, as the Judge or Commissioner shall order.

Allowance
to bankrupt for
his support.

LXXIX. And be it enacted, that every trader shall, within thirty days after the execution of a contract of marriage, and every person who being already married shall become a trader, shall, within thirty days after he shall have commenced trading, cause his contract of marriage (if any such there be,) to be enregistered in the office of the Register of the County or District (as the case may be,) in which the lands mentioned in or charged by such contract lie; or if no lands be mentioned in or charged by such contract, then in the office of the Register of the County or District, as the case may be, in which such trader shall reside at the time of the execution of such contract; in default whereof the same shall be null and void, as against the creditors of such trader becoming bankrupt; and that free access shall be allowed to all persons to inspect and make extracts from the register, upon payment of the sum of two shillings and six pence for each inspection of the register of such contract of marriage, and no more; and no trader, or other person aforesaid, who having made such contract of marriage, shall afterwards become bankrupt, shall be entitled to a certificate of discharge under this Act, unless he shew by his books of account regularly kept, or by written proof or otherwise, to the satisfaction of the Judge or Commissioner, that when he executed the said contract of marriage, his estate, real and personal, was equal in value, after the payment of all his just debts, to the sum or sums of money, land or other things, thereby given or secured to or for the use of his wife or future family, out of the property of him the said trader: Provided that nothing herein contained shall make it necessary again to register any contract of marriage which has already been registered under the provisions of the Ordinance of Lower Canada herein-before mentioned, but such registry shall be effectual to all intents and purposes, as if this Act had not been passed.

Contracts of
marriage of
persons being
or becoming
creditors to be
registered, or to
be void.

Cases in
which certi-
ficates shall not
be granted.

Proviso.

LXXX. And be it enacted, that it shall and may be lawful for the Judge or Commissioner to allow to, and permit the assignees to retain out of the monies in their hands belonging to the estate of the bankrupt, at the time of paying each dividend, such sum not exceeding five per centum on the sum divided, as he shall deem a reasonable compensation for their services.

Compensation
to assignees.

LXXXI. And be it enacted, that for every commission of bankruptcy issued by a Judge under the authority of this Act, there shall be paid out of the estate of the

Fees to be
paid to any

the

District Judge
acting in cases
in bankruptcy.

the bankrupt, by the assignees, the sum of forty shillings, to the Clerk of the District Court over which such Judge presides, and the further sum of ten shillings, for every sitting under such commission which any Judge shall attend, and the sum of one shilling for every oath or affidavit administered by or taken before such Judge, in the particular case, and for every oath or affidavit administered or taken to procure a Summons for a trader debtor, the sum of one shilling, and for every such Summons the sum of one shilling and three pence, to be paid by the creditor at whose instance such oath or affidavit is administered, and such Summons issued; and the said Clerk shall keep a separate account of such fees, and shall render an account to the Receiver General of fees in his District, and shall pay over the amount of such fees to such Receiver General, under the same liabilities, securities and conditions, and to be accounted for in like manner as the present general fee fund of the District.

Like fees to
be paid to a
Commissioner
in like cases.

LXXXII. And be it enacted, that in cases where a Commissioner shall act in place of a Judge, similar fees to those provided for the Judge shall be paid to such Commissioner for the performance of the same services and duties: Provided, that the sum allowed for each day's attendance by such Judge or Commissioner shall be apportioned among the several causes, if there be more than one, in which he may act on the same day.

Fees and al-
lowances to
certain officers
and to wit-
nesses.

LXXXIII. And be it enacted, that there shall be allowed and paid in like manner to the Clerk or other officer of the Court of Review, the sum of four pence on every paper received and filed by him in any case of bankruptcy; and to the Clerk appointed to each case of bankruptcy, for every day's attendance upon or with the Judge or Commissioner on any business in bankruptcy, a sum not exceeding fifteen shillings per day, to be apportioned in like manner as the allowance for attendance to the Judge or Commissioner is directed to be apportioned, and such further compensation for keeping a record of the proceedings, and for any other services performed by him, as the Judge or Commissioner shall allow; and to the Sheriff such compensation as the Judge or Commissioner shall see fit to allow, according to the circumstances of each case, and not exceeding the scale of allowance to Sheriffs for services of a similar character; and to every witness the same allowance as is or may be usually made to witnesses in the Courts of the Province.

Penalties
how recovered
and applied.

LXXXIV. And be it enacted, that all sums of money forfeited under this Act, or by virtue of any conviction for perjury committed in any oath hereby directed or authorized, may be sued for by the assignees of the estate and effects of any bankrupt, in any of Her Majesty's Superior Courts of Record in this Province, and the money so recovered (the charges of suit being deducted) shall be divided among the creditors.

LXXXV.

LXXXV. And be it enacted, that the words and expressions hereinafter mentioned, which in their ordinary signification may have a more confined or different meaning, shall in this Act, except when the nature of the provision, or the context of the Act shall exclude such construction, be interpreted as follows, that is to say: the word "Governor" shall mean also and include the Lieutenant Governor or person administering the Government of the Province: the word "month" shall mean a calendar month: the word "oath" shall include affirmation, when by Law such affirmation is required or allowed to be taken in place of an oath; and every word importing the singular number shall extend and be applied to several persons and things as well as one person or thing, and bodies corporate as well as individuals; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only, shall extend and be applied to a female as well as a male; and that this Act shall extend to aliens, denizens and females, both to make them subject thereto, and to entitle them to all the benefits given thereby, and that this Act shall be construed in the most beneficial manner for promoting the ends thereby intended.

Interpretation clause.

Governor.

Month.
Oath.

Singular number.

Plural number.

Gender.

General rule.

LXXXVI. And be it enacted, that this Act shall be and continue in force for and during the term of two years, and from thence to the end of the then next ensuing Session of Parliament, and no longer.

Limitation of Act.

SCHEDULES REFERRED TO BY THE ACT.

SCHEDULE A. No. 1.

Affidavit for summoning a Trader Debtor. Vide Sec. 3.

A. B. of and C. D. of severally make oath and say, and first this deponent A. B. for himself saith, that E. F. is justly and truly indebted to this deponent in the sum of £ for (*stating the nature of the debt with certainty and precision*); and this deponent further saith, that the said E. F., as this deponent verily believes, is a trader within the meaning of the Statute of this Province relating to bankrupts, and resides (*or has his usual place of business*) at , and that an account in writing of the particulars of the demand of the said A. B. amounting to the sum of £ , with a notice thereunder written in the form prescribed by the Statute in that case made and provided, purporting to require immediate payment of the said debt, is hereunto annexed ;

nexed; and this deponent C. D., for himself saith, that he did, on the day of _____ personally serve the said E. F. with a true copy of the said account and notice.

No. 2.

Particulars of demand, and notice requiring payment. Vide Sec. 3.

To E. F. of _____

The following are the particulars of the demand of the undersigned A. B. of _____ against you the said E. F., amounting to the sum of £ _____ (*Here copy the account or demand.*)

Take notice that I, the said A. B., hereby require immediate payment of the said sum of £ _____ Dated this _____ day of _____ in the year of our Lord _____

(Signed)

A. B.

No. 3.

Summons of Trader. Vide Sec. 3.

To E. F. of _____

These are to will and require you to whom this Summons is directed, to be and appear before me, at _____ in the County of _____ on the _____ day of _____ at _____ o'clock, in the _____ and you are hereby notified, that the purpose for which you are thus summoned before me is to ascertain, in manner and form prescribed by the Statute in that case made and provided, whether or not you admit the demand of A. B. of _____ (who claims of you the sum of £ _____ for a debt,) or any and what part thereof, or whether you verily believe that you have a good defence to the said demand, or to any and what part thereof; and hereof you are not to fail at your peril. Given under my hand, the _____ day of _____ 184 _____

(Signed)

J. K.

Judge or Commissioner, (*as the case may be.*)
SCHEDULE.

SCHEDULE B. No. 1.

Admission of Debt by Trader Debtor. Vide Sec. 4.

At _____ in the County of _____ the
day of _____

Whereas, I, the undersigned E. F., am summoned to appear before
Esquire, "Judge of the District Court of the District of
" or " Commissioner of Bankrupts," (as the case may be,)
for the purpose of stating, in manner prescribed by the Statute in that case made
and provided, whether or not I admit the demand of A. B., of
who claims of me the sum of £ _____ for a debt, or any or what part
thereof, or whether I verily believe that I have a good defence to the said demand,
or to any and what part thereof: Be it known that I, the said E. F., hereby con-
fess that I am indebted to the said A. B., in the said sum of £ _____ (or,) in
part of the said sum of £ _____ that is to say, the sum of £ _____

No. 2.

Deposition by Trader Debtor of belief of good answer to Creditor's demand, or some part thereof. Vide Sec. 4.

At _____ in the county of _____ E. F. of
being sworn this _____ day of _____ at the place above
mentioned, upon his oath saith, that he verily believes he has a good defence to the
demand (or to £ _____ part of the demand) hereinafter mentioned, of A. B.
who claims of the said E. F. the sum of £ _____ for a debt alleged to be due
and owing from the said E. F. to the said A. B., as stated in the Affidavit of the
said A. B. made before (as the case may be) on the _____ day of _____

SCHEDULE C. No. 1.

Admission of Debt signed by Trader Debtor—signed out of Court. Vide Sec. 10.

I, the undersigned E. F., of _____ do hereby confess that I am indebted
to A. B., of _____ in the sum of £ _____

(Signed) E. F.
Dated _____

Dated this day of 18 .

Witness, G. H., Attorney (or Notary) attending on behalf of the said E. F.,
and subscribing witness to the execution thereof as such Attorney (or Notary.)

SCHEDULE D.

Declaration of Insolvency by Trader. Vide Sec. 15.

I, the undersigned E. F., of do hereby declare that I am unable
to meet my engagements. Dated this day of in the
year of our Lord

(Signed) E. F.

Witness, G. H., Attorney at Law (or Notary.)

SCHEDULE E.

Notice of Bankruptcy to be inserted in the Gazette. Vide Sec. 24.

BANKRUPT.

E. F. of
Court, of the District of
case may be,) dated the
Meeting of creditors on

Commission issued by J. K. Judge of the District
(or Commissioner of Bankrupts, as the
day of 184 .
at

(Signed) R. S.
Sheriff.

SCHEDULE F.

Oath of Bankrupt. Vide Sec. 40.

I, E. F. of do swear, that the account of my creditors con-
tained in the Schedule made and signed by me, and now in the hands of the as-
signee chosen by my creditors, is in all respects just and true, according to the
best

best of my knowledge and belief; and I do further swear, that I have delivered to
 Sheriff of the District of _____, all my estate,
 except such parts as are by law exempted from attachment, and such as have
 been necessarily expended for the support of myself and my family; and all my
 books of account, deeds and papers, relating to my said estate, that were in my
 possession or power when the same were demanded of me by the said Sheriff;
 and that I have delivered to the said assignees all such of my said estate, books,
 deeds and papers, as have since come to my possession: and that if any other
 estate, effects, or other things which ought to be assigned and delivered to the
 said assignees, shall hereafter come to my knowledge or possession, I will forth-
 with disclose or deliver the same to the said assignees: And I do further swear,
 that there is not any part of my estate or effects concealed, made over, or disposed
 of in any manner, for the future benefit of myself or my family, or in order to de-
 fraud my creditors.

Sworn at

this

(Signed)

E. F.

day of

184

Before me

(Signed)

J. K.

Judge (or Commissioner.)

SCHEDULE G.

Certificate for the Discharge of Bankrupt. Vide. Sec. 59.

At _____ in the County of _____ To all to whom these
 presents shall come: I, J. K., Judge of the District Court, of the District of
 _____ (or Commissioner of Bankrupts, *as the case may be,*) send, greeting:

Whereas it hath been made to appear to me, that E. F. of
 whose estate hath been assigned for the benefit of his creditors, according to the
 provisions of an Act passed in the seventh year of the reign of Her Majesty
 Queen Victoria, intituled, *An Act to repeal an Ordinance of Lower Canada,*
 intituled, *An Ordinance concerning bankrupts, and the administration and distri-*
bution of their estates and effects, and to make provision for the same object throughout
the Province of Canada, has made a full disclosure and delivery of all his estate,
 as in the said Act is required, and has in all other respects submitted and con-
 formed himself to the provisions of the said Act. Now, therefore, I, the said J. K.
 do hereby certify that the said E. F. is absolutely and freely discharged from all
 debts, claims and demands, of what kind soever, which have been or shall be
 proved against his estate, assigned as aforesaid, and which are proveable, or by
 the _____

the said Act are declared proveable against such his estate, and which were due by him at the date of the commission issued against him, and from all claims and demands made proveable under the said commission, whether on account of any goods or chattels wrongfully obtained, taken or withheld by him, or otherwise, according to the form of the said Act. And I do further certify, that the said E. F. is, by force of the Act aforesaid, for ever discharged and exempted from arrest and imprisonment in any suit, or upon any proceeding for or on account of any debt, claim or demand whatever, which might have been proved against his estate, assigned as aforesaid.

Given under my hand and seal, at
in the year of our Lord

aforesaid, this day of

(Signed)

J. K.

{ L. S. }

C A P. XI.

An Act for vesting in the Principal Officers of Her Majesty's Ordnance, the Estates and Property therein described, for granting certain powers to the said Officers, and for other purposes therein mentioned.

[9th December, 1843.]

Preamble.

WHEREAS, divers Messuages, Lands, Tenements, Estates and other Hereditaments, and real property, lying within this Province, have been at various times set apart from the Crown Reserves or other Crown Lands and property in this Province, or from the Clergy Reserves therein, and have been placed under the charge and control of the Officers of Her Majesty's Ordnance, or of the Commander of the Forces, for purposes connected with the defence of the Province, and the service of the said Department, or have been used and occupied for like purposes; and whereas other Messuages, Lands, Tenements, Estates and other Hereditaments and real property have been at divers times purchased for like purposes, and conveyed or surrendered to, or in Trust for Her Majesty, or Her Royal Predecessors, or have been taken for like purposes under the authority of some Act or Acts of the Legislature of the late Province of Lower Canada, or of the late Province of Upper Canada, and are by the provisions of such Acts vested in Her Majesty; and the price or compensation of and for the same, hath been paid out of the funds provided for that purpose by the Parliament of the United Kingdom: and whereas it may be expedient that such parts of the said

said Lands, Estates and Property as may not be wanted for the service of the said Department, or for the Military Defence of this Province, should from time to time be sold or disposed of: and whereas for effecting such sales, for the better protection and management of such property as aforesaid, and of the works under the control of the said Ordnance Department, and for the public good, it is expedient and necessary that the same and all other Messuages, Lands, Tenements, Estates, Hereditaments and other real property of the nature and description hereinafter mentioned, should be vested in the Principal Officers of Her Majesty's Ordnance, for the time being, in Trust for Her Majesty, Her Heirs and Successors, with the powers hereinafter granted to the said Principal Officers, and subject to the provisions hereinafter made; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, that from and after the passing of this Act, all Castles, Forts, Lines or other Fortifications, Messuages, Lands, Lands covered with water, Beaches, Beds of Rivers, Canals and Works connected therewith; Tenements, Estates and other Hereditaments; real property, rights, easements and servitudes whatsoever, (all which things shall be intended by the words "Lands and other real property" wheresoever they occur in this Act) within this Province, and immediately before that time vested in Her Majesty, or in any person or persons, officer or officers, in trust for Her Majesty, and set apart, used or occupied for purposes connected with the Military Defence of the Province, or placed under the charge and control of the Officers of the said Ordnance Department, or of the Commander of Her Majesty's Forces, or other Military Officer or Officers, whether the same have become so vested in Her Majesty, or Her Royal Predecessors for such purposes by the cession of this Province, or have been by Her or them set apart or transferred from the Lands, demesnes, or other real property of the Crown, or from the Clergy Reserves, or have been intended to be so set apart or transferred, for any of the purposes aforesaid, or have been purchased for such purposes by any person, or officer, and paid for out of funds provided for that purpose by the Parliament of the United Kingdom, and surrendered or conveyed to Her Majesty, or Her Royal Predecessors, or to some person in trust for Her or them, or have been set apart or transferred or have been taken for any such purposes, under the authority of any Act or Law, in force in this Province, or in any part thereof, (by whatsoever mode of conveyance the same shall have been purchased and taken, and whether in fee or absolute property, or for any life or lives, or term or terms of years, or for any lesser interest, or *à titre de cens*) and more especially, but without intending that the enumeration

What property shall be vested.

Lands used for Military Defence or under Control of the Ordnance Department.

Schedule referred to.

enumeration or specification thereof should exclude any other Lands or real property within the description aforesaid, the Lands and other real property mentioned and described in the Schedule to this Act annexed, and all such Lands, and other real property, and all others which having been acquired and purchased, or taken for the Crown, and the price or compensation thereof paid out of funds provided by the Imperial Parliament, Her Majesty shall be pleased to direct to be vested as hereafter mentioned, and all erections and buildings which now are, or which shall hereafter be erected, or built thereon, together with the rights, members, and appurtenances to the same respectively belonging; and also all the Tolls, Rates and Dues now or hereinafter to become payable upon, from, or in respect of the Canal commonly called the Rideau Canal, constructed under the provisions of the Act of the Parliament of the late Province of Upper Canada, passed in the eighth year of the Reign of His late Majesty King George the Fourth, and intituled, *An Act to confer upon His Majesty certain powers and authorities necessary to the making, maintaining and using the Canal intended to be completed under His Majesty's directions for connecting the waters of Lake Ontario with the River Ottawa, and for other purposes therein mentioned*; and also the powers and authorities given and granted and now vested in Her Majesty by virtue of the said Act, for all and every the purposes therein mentioned; with power to make, repeal or amend By-Laws for the regulations of such of the Canals and Works hereby vested in them as shall be open to the use of the public, and to impose penalties for the infraction of such By-Laws, which being approved by the Governor of this Province, may be enforced in the manner provided by the Act last cited with regard to By-Laws to be made in pursuance thereof, save that all pecuniary penalties shall be applied by the Principal Officers in repairing the damages resulting from the offences for which they shall be incurred; and also all the moveable and personal property of Her Majesty held or used for the services and purposes aforesaid, or any of them, shall be and the same are hereby vested, and shall remain vested in the Principal Officers of Her Majesty's Ordnance in Great Britain, and their Successors in the said Office, according to their respective nature and quality, and the several estates and interests therein, subject to the provisions of this Act, and in trust for Her Majesty, Her Heirs and Successors for the service of the said Department, or for such other services as Her Majesty, Her Heirs and Successors, or the said Principal Officers shall from time to time direct: Provided always, that nothing in this Act shall extend to vest in the said Principal Officers any Lands or Buildings, which have been purchased or erected for Provincial purposes, with funds provided by the Legislature of this Province, or of either of the late Provinces of Upper or Lower Canada, unless the same shall be lawfully purchased by, and conveyed to the said Principal Officers, under the provisions of some Act or Law in force in this Province; or any Lands or Buildings belonging to the Civil Government of the Province, notwithstanding that the same may have

Proviso exempting from the operation of this Act property purchased or acquired by Provincial Funds.

been under the charge and control, or in the use or occupation of the Ordnance, or any other Military Department : And provided also, that nothing in this Act shall extend or be construed to extend to vest in the said Principal Officers, any Lands which may, before the passing of this Act, have been granted by Her Majesty, or Her Royal Predecessors, to any other person or party, unless the same shall have been, subsequently to such grant, lawfully purchased, acquired or taken for the purposes of the said Ordnance Department, nor to impair, diminish or affect any right, title or claim, vested in or possessed by any person or party at the time of the passing of this Act, to, in or upon any Lands or real property whatsoever, nor to give the said Principal Officers any greater or better title to any Lands or real property than is now vested in the Crown, or in some person or party in trust for the Crown.

Proviso exempting from the operation of this Act, any lands granted to private parties unless subsequently purchased for the purposes of the Ordnance Department, nor to affect titles, &c.

II. And be it enacted, that from and after the setting apart, grant, purchase, conveyance, demise or taking thereof, all other lands and other real property or estate or interest therein, which shall at any time or times hereafter be granted or purchased, or taken by the said Principal Officers, or by any person or persons for them, for the service of the said Ordnance Department, or shall be surrendered to or taken by Her Majesty or purchased or taken by any person in trust for Her Majesty, for such services under the provisions of this Act or of any other Act or Law, and all erections or buildings which shall then, or which may thereafter be erected or built thereon, with the rights, members and appurtenances to the same respectively belonging, shall in like manner be, and become and remain vested in the said Principal Officers, and their successors in the said Office, according to the nature and quality of the said Lands and other real property, and the several and respective estates and interests of and in the same respectively, and in trust as aforesaid.

Lands, &c. to be hereafter acquired to be vested in like manner.

III. And be it enacted, that all public Lands which shall be certified under his hand and seal by the Commander of Her Majesty's Forces in this Province, to be necessary for the erection of any Fort, Barrack, Battery or other Military Work, or for preserving such work free from obstructions, may on an order of the Governor, Lieutenant Governor or person administering the Government of this Province, by and with the advice and consent of the Executive Council thereof, be freely granted by Letters Patent under the Great Seal of this Province, to the said Principal Officers in trust as aforesaid; and being so granted, may be disposed of by them in the same manner as other Lands vested in them under the provisions of this Act, and all other Public Lands may be purchased by, and granted to, and vested in the said Principal Officers in trust as aforesaid, on the payment of the price thereof by the said Principal Officers, out of any funds provided for that purpose by the Imperial Parliament.

See U. C. Act 3 V. c. 16.

Principal Officers to abide by Leases, &c. made by Officers of the Ordnance Department and others.

IV. Provided always, and be it enacted, that any Lease or Conveyance, or any promise of any Lease or Conveyance of any part of the Lands or other real property hereby vested in the said Principal Officers, or of any estate or interest therein, made or entered into before the passing of this Act, by any Officer or person under whose control such Lands or property were placed, or in whom the same were vested in trust for the Crown, shall be held good and valid by the said Principal Officers, who shall be bound to ratify and confirm the same, and to execute all Deeds and Instruments which may be necessary for that purpose, on the terms and conditions on which such Lease, Conveyance or promise was made.

Payment of arrears of Rent and deductions to be made therefrom.

V. And whereas great part of the Town of Bytown has been built upon certain Lands, mentioned in the Schedule to this Act, purchased by the late Earl of Dalhousie with funds belonging to the Military Chest and conveyed to him in trust for the Crown, and placed by Her Majesty under the control and management of the said Principal Officers, under whom divers persons have held and still hold Building Lots, which the said Principal Officers have not hitherto been empowered to convey to such persons, and much Land at Bytown not required for Military or Canal purposes or the service of the said Department still remains vacant, and will be hereby vested in the said Principal Officers, and it is desirable to afford every practicable facility for the settlement thereof; and whereas by reason of the said Lands not having been vested in the said Principal Officers, and their not having been empowered to convey the same, or to grant titles thereto, the persons holding under them have been unwilling to pay the sums due as rent for their several holdings, and from the supposed uncertainty of their titles have in some cases been deterred from improving the lots they hold, and erecting buildings thereon, whereby the said persons have suffered loss, and the growth and improvement of the said Town has been impeded; and whereas by reason of the circumstances above mentioned it is right that certain allowances should be made to the persons aforesaid, and that provision should be made for enabling persons desirous of obtaining portions of the said vacant Land as building lots, to obtain the same on payment of the value thereof; Be it therefore enacted, that no arrears of rent due before the passing of this Act on any portion of the Lands aforesaid, at Bytown, in the Township of Nepean, formerly in the Johnstown District, and now in the District of Dalhousie, shall be recoverable by the said Principal Officers, except by five equal annual instalments without interest, the first of which shall be payable at the end of one year, and the last at the end of five years, from the passing of this Act; subject also to the deductions hereinafter mentioned, unless any such instalment be not paid within one month after it shall have become due, in which case the whole of the arrears then owing by the party failing to pay such instalment shall immediately become payable, and without any deduction: Provided always, that if the whole of the arrears so due as aforesaid, on any holding shall

shall be paid within one year from the passing of this Act, the said Principal Officers shall deduct therefrom, and leave to the party paying such arrears, a sum equal to thirty per cent. thereon; and if the whole of the arrears so due as aforesaid on any holding shall be paid within two years from the passing of this Act, the said Principal Officers shall deduct therefrom and leave to the party paying such arrears, a sum equal to twenty per cent. thereon; and in all cases where the party paying shall not be entitled to either of the deductions aforesaid, there shall be deducted from the amount of every instalment of such arrears as aforesaid, paid at or before the time it shall become due, a sum equal to ten per cent. thereon, and the discount on the sum paid at the legal rate of interest for the time (if any), to elapse between the time of payment and the time at which such instalment would become due.

VI. And be it enacted, that upon payment of the arrears of rent then due, subject to the deductions aforesaid, and of such further sum as would at the legal rate of interest produce yearly a sum equal to the yearly rent payable to the said Principal Officers for any such holding as aforesaid, the said Principal Officers shall, by a good and valid deed and title, convey the fee simple of the Land upon which such payment shall have been made to the party holding the same, to be by such party, his heirs, and assigns held in free-hold for ever, and clear of all charges or incumbrances of whatsoever kind or nature.

Leaseholds
may be con-
verted to Free-
holds.

VII. And be it enacted, that such of the vacant Lands aforesaid at Bytown, as shall not be required by the said Principal Officers for Military or Canal purposes, or the service of the said department, and with regard to which no such lease or promise as aforesaid was made before the passing of this Act, shall be by them offered for sale by public competition to the highest bidder, at such times, after such notice, at such upset price, in such lots or parcels, and in such quantities at one time, as shall from time to time be fixed by the said Principal Officers, and approved by the Governor of this Province, by and with the advice and consent of the Executive Council thereof, or as may be directed by the said Governor by and with such advice and consent as aforesaid; provided that such direction do not include Lands that may be certified by the Commander of the Forces in this Province to be necessary for Military or Canal purposes, or for the service of the said department; Provided always, that the purchaser at any such sale, his heirs and assigns, shall always have the option of paying the purchase money, and obtaining the fee simple of the Land, or of obtaining a lease renewable for ever at a yearly rent equal to the yearly interest of the purchase money, with the right of obtaining a conveyance of the fee simple from the said Principal Officers at any time on paying to them the amount of the purchase money, and the rent (if any) then due; And provided also, that any party who before the
twenty-first

Lands to be
disposed of
with pre-emp-
tion to Squat-
ters.

twenty-first day of September, one thousand eight hundred and forty-three, shall have actually had possession of any such lot or parcel as aforesaid, of the said vacant Lands, and shall before the said day have erected buildings, or made other improvements thereon of the value of ten pounds, currency, or upwards, shall have the right, from and after the passing of this Act, to purchase such lot or parcel at the upset price set upon the same without the buildings or improvements, to be fixed and approved as aforesaid, during twelve months after such upset price shall have been notified in the manner to be also fixed and approved as aforesaid, and shall also have the same option of paying the purchase money and obtaining the fee simple of the Land, or of obtaining a lease renewable for ever at a yearly rent equal to the yearly interest of the purchase money, as if he had purchased the Land at a sale by public competition as aforesaid; but if any such party shall, during the said period of twelve months, refuse or neglect to take either a Lease or conveyance in fee simple on the terms respectively aforesaid, such party shall forfeit all claim to or upon the said lot or parcel of Land, or to or upon any buildings or improvements thereon, or to any indemnity or compensation for the same, and such lot or parcel of Land, and the buildings or improvements thereon, if any, shall be offered for sale by public competition, and dealt with in all respects as if such party had never been in possession thereof.

Terms assigned to attend Inheritance.

Principal Officers may convey lands subject to Trusts if they deem it advisable.

VIII. And be it enacted, that any term or terms of years, or other less estate or right which shall have been assigned, or reserved, in or to attend upon the inheritance or absolute property of any land or real property hereby vested in the said Principal Officers at the time the same shall have been surrendered or conveyed to, or in trust for the Crown, shall be and remain vested in the party or Trustee or Trustees, his or their executors, administrators, assigns or legal representatives, to or in favour of whom the same shall have been so assigned or reserved: and it shall be lawful for the said Principal Officers to convey, surrender or assign all or any of the Lands and other real property and premises which shall at any time be vested in them, and to direct all or any of the Lands and other real property and premises which shall hereafter be agreed to be purchased or taken by them to be conveyed, surrendered or assigned to a trustee or trustees for the use of the Ordnance Department or the defence of this Province, upon the trusts to which the same shall or ought to be subject, in case from any circumstance whatever, it shall in the judgment of the said Principal Officers be expedient so to do.

Principal Officers may take conveyances, or leases of Lands for the Ordnance service.

IX. And be it enacted, that it shall be lawful for the said Principal Officers from time to time to contract for, purchase and take for, and on behalf of Her Majesty, Her Heirs and Successors, any Lands or other real property, or any lease of, or other interest in the same which shall in their judgment be desirable to

to be purchased or taken for the service of the said Ordnance Department, or the defence of this Province upon such terms as to the said Principal Officers shall seem meet, and to enter into any contracts necessary for that purpose, and all such lands or other real property, estate or interest therein so to be purchased shall be conveyed, granted or surrendered to the said Principal Officers in trust as aforesaid.

X. And be it enacted, that it shall be lawful for all Bodies politic or corporate, ecclesiastical or civil, and all Feoffees and Trustees for charitable or other public purposes, and for all tenants for life, or in tail, or in substitution, and for the husbands, guardians, trustees, committees, curators, tutors or attornies of such of the owners or proprietors of, or parties interested in any lands or other real property, which have been or may hereafter be agreed to be purchased, or taken by the said Principal Officers for any of the purposes aforesaid, as shall be married women, *femes covert*, minors, infants, lunatics, idiots, interdicted persons, or persons absent from the Province, or otherwise incapable of acting for themselves, validly to contract and agree with the said Principal Officers, either for the absolute sale or exchange of any such lands, or other real property, or for the sale, grant or release of any estate, right, title or interest therein, or for the reversion thereof after any estate or estates for lives or years or other future or contingent interest, or for any term of years therein, or for such period as the exigency of the public service may require, and to convey, surrender, grant or demise the same accordingly; and all contracts, sales, conveyances, releases, surrenders, leases and agreements which shall be made in pursuance of this Act shall be valid and effectual in law and in equity to all intents and purposes whatsoever, and shall be a full and complete bar to all dower and claims of dower, estates-tail, substitutions, mortgages, hypothecations and other estates, rights, titles, trusts, uses and interest whatsoever.

Enabling clause. Certain parties may convey to the Principal Officers.

XI. And be it enacted, that upon the death, resignation or removal of the Principal Officers of Her Majesty's Ordnance in Great Britain, or any of them, all lands and other real property theretofore vested in, or held by them, shall become vested in and shall be held by their successors in office according to the respective nature and quality of the said lands and other real property, and the several estates and interests in the same respectively in trust as aforesaid; and the words "Principal Officers," or "Principal Officers of Her Majesty's Ordnance," wheresoever they occur in this Act, or in any contract, deed, instrument or proceeding made or had under the provisions thereof, shall be understood to mean the Principal Officers of Her Majesty's Ordnance in Great Britain for the time then being, and to include their predecessors or successors in Office, unless the context shall clearly require another interpretation of such words.

On death, &c. of any Principal Officers, property to vest in their successors in office.

Words "Principal Officers," in this Act, how to be understood.

Power to sell
or dispose of
the property
vested by this
Act.

XII. And be it enacted, that it shall be lawful for the said Principal Officers to sell, exchange, or in any manner to dispose of, or to let or demise any lands or other real property vested in them by virtue of this Act, or any estate or interest therein so vested, or any of the said moveable and personal property hereby vested in them either by public auction or by private contract, and to convey, surrender, assign or make over, grant, demise or deliver the same (as the case may require) to any party willing to take the same in exchange or otherwise, and also to do any other matter or thing in relation to any such lands or other real, moveable or personal property which shall by the said Principal Officers be deemed beneficial for the public service, and conducive to the better management and use of the property hereby vested in them, which might be done by any person having an estate or interest in the same, of the same nature as shall be vested in or held by the said Principal Officers in trust as aforesaid.

Monies arising from such sale to be paid to those whom the Principal Officers may direct.

XIII. And be it enacted, that the monies to arise and be produced by the sale, or exchange, demise or disposal of any such lands or other real property as aforesaid, which shall be sold or exchanged, demised or disposed of under the provisions of this Act, shall be paid by the purchaser or purchasers thereof or the person or persons making such exchange, or to whom the same shall be demised or disposed of, to such person or officer as the said Principal Officers shall appoint to receive such monies, for such purposes as Her Majesty, Her Heirs and Successors shall direct; and the receipt of such person or officer as aforesaid, (such receipt being endorsed or written upon or subjoined to the conveyance, surrender, assignment, lease or other instrument or an authentic copy thereof) shall effectually discharge the purchaser or purchasers, person or persons by whom or on whose account such monies shall be paid.

Principal Officers may enter upon and survey Lands required for the Ordnance service, and treat for them.

XIV. And be it enacted, that it shall be lawful for the said Principal Officers to enter upon, survey and mark out or cause to be surveyed and marked out, any Lands or other real property which may in their judgment be wanted for the service of the Ordnance Department or for the defence of this Province, and to treat and agree with the owner or owners thereof, or with any party or persons who by the preceding provisions of this Act may be authorized to convey or demise the same either for the absolute purchase of the same or of some estate or interest therein, or for the possession or use thereof during such time as the exigence of the public service may in the judgment of the said Principal Officers require: Provided always that before entering upon and surveying or marking out any such Lands or real property in the actual occupation of the proprietor or any other person, the said Principal Officers shall be held and bound to give notice of the day and hour of such intended entry in writing, by the space of seven days, to such proprietor or other person, under the hand of some Officer of the Ordnance duly authorised

authorized to that effect : Provided always that nothing herein contained shall extend or be construed to authorize the said Principal Officers of Her Majesty's Ordnance Department to enter upon, take possession of, or otherwise interfere with the Lands described in the Act of the Parliament of Upper Canada entitled an "Act to incorporate the Niagara Harbor and Dock Company," but the said Company, shall hold, possess and enjoy the same, any thing in this Act to the contrary notwithstanding.

This Act not to interfere with the Niagara Harbor and Dock Company.

XV. And Provided always and be it enacted, that nothing herein contained shall be construed to restrain or prevent the Parliament of this Province from authorizing the construction of any Canal or Railroad upon or over any Lands which may have been reserved or set apart as aforesaid by the Governor, Lieutenant Governor or person administering the Government of either of the said late Provinces as aforesaid, in Council for Military purposes, and which by this Act are vested in the Principal Officers of Her Majesty's Ordnance as aforesaid.

This Act not to prevent the construction of any Canal or Railroad through any Reserves for Military purposes.

XVI. And be it enacted, that in case the person or party hereby authorized to convey or demise any lands or other real property so marked out and surveyed as aforesaid, shall be absent from the Province, or unknown to the said Principal Officers, or shall for the space of fourteen days next after notice in writing subscribed by or on behalf of the said Principal Officers, shall have been served on or left at the residence or domicile of such person or party (or if the party be a body politic or corporate, having no legal domicile, then on the Chief Officer thereof, or at his usual place of residence) refuse or decline to sell, or demise, or to enter into such contract with regard to such lands or other real property, as shall be satisfactory to the said Principal Officers, or shall refuse the price or consideration offered by them, then on the requisition of the said Principal Officers, it shall be lawful for the Governor, Lieutenant Governor or person administering the Government of this Province, being satisfied of the facts aforesaid, to require any Sheriff for the district, city, town or place where such lands or other real property shall lie, to cause the said Principal Officers to be put into possession thereof, which such Sheriff shall accordingly do by issuing a warrant under his hand and seal, taking with him sufficient assistance, and the said Sheriff or his Deputy shall summon twenty-four persons qualified to be Special Jurors, who shall stand first in order to be summoned on his lists, to be and appear at the Court House of the District, on a day and at an hour to be named in such warrant, and not being less than ten days after the Sheriff shall have put the said Principal Officer into possession as aforesaid, and of which day and hour he shall give notice in writing to the Owner or Proprietor, and to all persons whom he shall find on the premises, when he shall give possession thereof, and at the time so appointed, a Jury shall be formed out of the Jurymen so summoned allowing to the parties, if present,

Proceedings if the owner refuse to sell, &c.

Governor may cause possession to be given.

Jury summoned.

Verdict.
Costs.

present, their lawful challenge to any Juror or to the array, and the said Jury being sworn before the Sheriff or his Deputy authorized to issue the warrant of possession (and such Sheriff or his Deputy is and are hereby empowered to administer all necessary oaths as well to the Jurors, as to the witnesses to be produced by the parties) shall, on hearing the witnesses and the evidence which shall be adduced before them, inquire of and determine the price or compensation which shall be paid by the said Principal Officers either for the absolute purchase of the Lands or other real property in question, or for the possession or use thereof as the case may be, and their verdict shall be certified by the Sheriff or his Deputy aforesaid, with the costs to be ascertained as hereinafter mentioned, that is to say, there shall be allowed to the Sheriff, for executing the warrant of possession and summoning the Jury, forty shillings, and for swearing the said Jury presiding at the inquiry and receiving the verdict, twenty shillings, together with necessary travelling expenses, to each Juror sworn ten shillings, and a reasonable allowance to each material witness to be taxed by the said Sheriff, and such costs shall be paid by the said Principal Officers, unless they shall have tendered to the opposite party a sum at least equal to that awarded by the verdict, in which last case they shall be paid by the said party, and such Sheriff may cause any witness or witnesses to be summoned, and compel their appearance, and may adjourn any meeting if Jurymen or witnesses do not attend.

Appeal to the
Superior
Courts.

Security for
costs.

Jury to be
directed to in-
quire of com-
pensation.

XVII. Provided always, and be it enacted, that if the said Principal Officers, or any person or party interested in the Lands and other real property so marked out and taken as aforesaid, shall be dissatisfied with the verdict of such Jury, it shall be lawful for such person, at the Term commencing next after the rendering of such verdict, if the owner or some person hereby empowered to convey such Lands and other real property, shall have had due notice of the taking thereof, or within one year, if they shall have been taken as belonging to some party unknown, or as being absent from the Province, and having left no known person therein, who might convey or demise the same on behalf of such party, to apply to the Court of King's Bench or of Queen's Bench for the District in which the Lands and other real property shall lie if the same be in Lower Canada, or to the Court of Queen's Bench if the same be in Upper Canada, and to suggest that they have reason to be dissatisfied with such verdict, and to give notice of such application to the opposite party, and to give security to the satisfaction of the Court for the payment of Costs, and thereupon the proceedings which have been had in the matter and the verdict of the Jury shall be returned into Court, and if it shall appear to the Court that the application ought to be granted, then the Court shall direct the compensation to be paid to be assessed and ascertained by a Jury according to Law, and the course and practice of the Court, and as any damages may be inquired

inquired of, and ascertained by a Jury, and the verdict of such Jury shall be final and conclusive, unless a new assessment of such damages shall for sufficient reason be granted by the Court, according to the course and practice thereof and to law.

New Assessment.

XVIII. Provided always, and be it enacted, that it shall be lawful for any such Jury either in the first instance, or on an appeal to the Court of Queen's Bench or of King's Bench as aforesaid, to ascertain the proportion of the compensation money which shall be paid to any lessee or tenant at will, or otherwise, of the land or other real property in question, or of any part thereof, and to return the same as part of their verdict: Provided also, that where any such appeal shall be had solely on the application of any party who shall have been dissatisfied with the sum awarded to be paid out of the compensation to any lessee or tenant at will, or otherwise, the said Principal Officers shall not be made parties to such appeal, and the total amount of the compensation awarded by the former Jury shall not be altered; and if the appeal shall be had solely on the application of any party dissatisfied with the total amount of compensation awarded by the former Jury, the lessee or tenant at will, shall not be made a party to such appeal, and the sum awarded to be paid to him shall not be altered.

Jury may assess separately the compensation to be paid to any lessee.

Proviso.

XIX. And be it enacted, that all Lands and other real property of which possession shall have been given to the said Principal Officers under such Warrant as aforesaid, and for the absolute property of which the compensation shall have been ascertained by the verdict of a Jury, in the manner hereinbefore prescribed, shall be vested in the said Principal Officers in trust as aforesaid; and the payment or tender of the compensation to any parties who might, without this Act, have conveyed the same, or the interest, or the estate therein, for which such compensation shall have been awarded, or the payment thereof in the manner provided by this Act, when such party acts on behalf of others, shall for ever bar the right or claim of such party, and those for whom he acts, in or to such Lands or other real property: Provided always, that no such Lands or other real property shall be so taken in absolute property, without the consent of some party who might, under this Act, convey the same, nor for any term of years, or other term, without the consent of some party who might have demised the same for such term, unless the necessity for taking the same shall be first certified under his hand and seal by the Commander of Her Majesty's Forces in this Province, or unless an enemy shall have actually invaded this Province, when such Lands or real property shall be so taken.

Lands for which compensation is awarded to be vested in Principal Officers.

Proviso, in what cases only lands may be taken without the consent of the owners.

See Act U. C. 3 Vict. c. 16.

XX. And be it enacted, that in all cases where any Lands or real property shall have been demised to, or taken by the said Principal Officers for any term of

* Principal Officers may remove buildings

&c. erected by them on lands demised to them for a term only, paying for any damage done to the soil, &c.

Damage done how ascertained in case of dispute.

of years or for such period only as the exigencies of the public service shall require, it shall be lawful for the said Principal Officers, notwithstanding any thing in this Act or in any other Act or Law, at any time before they shall deliver up possession of the same, to take down and remove all such buildings or other erections as shall or may have been built or erected thereon for the public service, after such Lands or real property was or were demised to, or taken by the said Principal Officers, and to carry away, sell, or dispose of the materials thereof, making such compensation to the owner or owners of such Lands or real property, or the person or persons authorized to act on his or their behalf, for the damage or injury done to such Lands or real property by the erection of such buildings or otherwise in consequence of the same having been occupied for the public service, as the said Principal Officers shall think reasonable, or as shall be agreed upon in that behalf; and if the owner or owners, or person or persons authorized to act, on his or their behalf shall not be willing to accept the compensation so offered, it shall be lawful for the said Principal Officers to apply to, and require any two Justices of the Peace for the District, City or place, to settle and ascertain the compensation which ought to be made for such damage or injury as aforesaid, and such Justices shall settle and ascertain the same accordingly, and shall grant a Certificate thereof, and the amount so ascertained, shall be forthwith paid by the said Principal Officers to the person or party entitled to the same: Provided always, that nothing in this Act contained shall extend or be construed to extend, to alter, prejudice or affect any agreement which hath been, or shall or may be entered into by the said Principal Officers, with the owner or owners of any Lands or real property, or any person authorized to act on his or their behalf, with regard to any such buildings or erections, but every such agreement shall remain valid and effectual, according to the intent and purport thereof.

Compensation for lands taken from absentees to remain in the hands of the Principal Officers until claimed by some competent party.

XXI. And be it enacted, that where any Lands or real property shall have been taken by the said Principal Officers under a Warrant of possession without the consent of any party who could convey or demise the same to the said Principal Officers, then the compensation money awarded by the verdict of a Jury in the manner aforesaid, shall remain in the hands of the said Principal Officers until it be claimed by some party who might have conveyed (or demised as the case may be) such Lands or real property, and shall execute such deed or warranty, and quit claim to the said Principal Officers as may suit the case, bearing simple interest at the legal rate during two years, (if it shall remain in their hands so long) but not afterwards.

Compensation for lands in Lower Canada purchased

XXII. Provided always, and be it enacted, that where any money shall have been, or shall be agreed or shall have been or shall be required by the Verdict of any Jury to be paid by the said Principal Officers for the absolute purchase

chase or exchange of any Lands, or other real property lying within Lower Canada, or of any estate or interest in such Lands or real property, which shall have been conveyed by or taken from any body politic or corporate, person or party who without this Act, would have been unable legally to convey the same, or shall not have the absolute interest therein, such money shall not (except as hereinafter excepted) be paid into the hands of the person or party who shall make and execute the sale, exchange, or other conveyance, or warranty, and quit claim, but the same shall be deposited with a copy of the deed of sale, or exchange, or of other conveyance, or of warranty, and quit claim, in the hands of the Sheriff for the District in which the Lands or other real property shall lie and upon the making and granting of the receipt which such Sheriff is hereby authorized and required to grant to the said Principal Officers, the Lands or other real property or estate or interest therein conveyed by the said deed shall be and become vested in the said Principal Officers in trust as aforesaid; and it shall be the duty of such Sheriff after the receipt of the said money and on the application of any party claiming the same, or any interest therein, and filing such claim with the application to make and insert during four months in the Official Gazette of the Province, and also in one other public newspaper published in each of the Cities of Quebec and Montreal, a notice in both languages, containing the date and nature of the deed or conveyance, and the amount of money deposited, and a description of the Lands or other real property to which such deed or conveyance shall relate, and calling upon all and every person or parties who may be legally entitled to claim the whole or any part of the said money, or may be possessed of any rights, titles, hypothecs, or interests which ought to be paid out of, or secured upon the same, either, personally or as duly representing some interested party to file their claims, within thirty days after the expiration of the said four months in the office of the said Sheriff after which delay no such claim shall be received or admitted: and all married women entitled to dower not then open, on such Lands or real property, and all persons duly representing minors, lunatics, idiots, or persons absent from the Province, having any right, title, interest or claim to, or in the said money, and all persons and parties having any such right, title, interest or claim in their own name, are hereby authorized to file their claims as aforesaid, and the Court of King's Bench or of Queen's Bench for the District, with the Sheriff whereof the said claims may be filed, is hereby authorized and required to hear and determine the same, and to order a final distribution of the said monies to, or among the parties entitled to the same, or to order the application and placing of the same or any part thereof, so as to secure present and future rights, in such manner as to Law and Justice may appertain.

ed or taken from any party not having the absolute interest how to be paid.

See Ordinance 2 Vict. c. 21.

On the application of any party interested, Sheriff to issue notice, and Court to make such order as may seem consistent with the rights of the parties.

Ordinance 2 Vict. c. 21.

Certain parties enabled to file claims.

Ordinance 2 Vict. c. 21.

XXIII. Provided also, and be it enacted, that where any money shall have been or shall be agreed, or shall have been or shall be required by the verdict of any

Compensation for lands purchased or taken in Upper-

Canada from parties not having the absolute interest.

See Imperial Act 5 & 6 V. c. 94.

Principal Officers to file in Queen's Bench copy of the Deed and declare themselves ready to pay the money.

The Justices of the Court may on the application of any party interested make such orders as may be necessary to secure the rights of the parties.

any Jury to be paid by the said Principal Officers, for the absolute purchase or exchange of any Lands or other real property lying within Upper Canada, or of any estate or interest in such Lands or real property which shall have been conveyed by or taken from, any body politic or corporate, person or party, who without this Act would have been unable legally to convey the same, or shall not have the absolute interest therein, such money shall not (except as hereinafter excepted) be paid into the hands of the person or party who shall make and execute the sale, exchange or other conveyance, warranty or quit claim, but the Principal Officers shall, forthwith after the execution thereof, file a copy of the deed or instrument, (certified as correct, by some Justice of the Peace who shall have compared the same with the original, and also by some person authorized to act on behalf of the said Principal Officers) in the Office of the Clerk of the Crown, with a declaration that the said Principal Officers are ready to pay over the said money, to such trustee, person or officer as any two Justices of the said Court shall appoint to receive the same; and upon the application of any person or party having an interest in the said money, it shall be lawful for any two Justices of the said Court, upon reading the said declaration, deed or instrument, and receiving such further satisfaction as they shall deem necessary, in a summary way, to make and pronounce such orders and directions for paying the said money or any part of the same, or for placing such part thereof as shall be principal in any public securities of this Province, or real securities, and for the payment of the dividends or interest thereof, or any part thereof, to the respective parties entitled to receive the same, or for laying out the principal or any part thereof, in the purchase of lands or other real property, to be conveyed and settled to, and for, and upon the same uses, trusts, interests or purposes, as the Lands or other real property for which such money shall be the compensation, stood settled at the time they were conveyed, or taken as aforesaid, or as near thereto as the same can be done, or otherwise concerning the disposition of the said monies or any part thereof, for the benefit of the party or parties entitled to or interested in the same, respectively, or for appointing any person or persons to be a trustee or trustees for all, or any of such purposes, or for requiring any security from any person to whom such monies, or any part thereof, shall be paid or entrusted, as to the said Justices shall appear just and right, and all such orders and directions shall be obeyed by the said Principal Officers, and the receipt of the person or officer to whom they shall pay the said money, or any part thereof, in obedience to such orders and direction, shall be their valid discharge for the money so paid.

Cases in Upper Canada when the compensation shall

XXIV. Provided also, and be it enacted, that in any case where such monies, as are lastly hereinbefore mentioned, shall be less than the sum of two hundred pounds currency, and shall exceed the sum of twenty pounds currency, the same shall,

shall, at the option of the party for the time being entitled to the rents and profits of the land or other real property purchased or taken, or of the Guardian or Guardians, Committee or Committees, of such party in case of infancy or lunacy, to be signified in writing under their respective hands, be paid as aforesaid, under the orders and directions of two Justices of the said Court of Queen's Bench, or otherwise, at the like option shall be paid to three trustees nominated by the party making such option, and approved by the said Principal Officers, (such nomination being signified in writing under the hands of the nominating and approving parties,) in order that such money may be invested in the purchase of public securities of the Province, and that such stock, when purchased, and the dividends arising therefrom, may be applied in the manner hereinbefore directed, so far as the same may be applicable, without obtaining the order and direction of any Justices of the said Court, and with the same effect as if such payment had been made under such orders and directions.

be less than
£200.

XXV. Provided also, and be it enacted, that in any case where the compensation or purchase money, shall be less than twenty pounds currency, the same shall, whether the Lands or real property for which the same shall be payable be in Upper Canada, or in Lower Canada, be applied to the use of the party who would, for the time being, be entitled to the rents and profits of such Lands, and shall be paid to such party, or to any person who might lawfully receive such rents and profits, for the use of such party, with the same effect as if the same had been paid into the hands of any Sheriff in Lower Canada, or under the order of any two Justices of the said Court of Queen's Bench in Upper Canada, any law, usage or custom to the contrary notwithstanding.

Cases either
in Upper or
Lower Canada,
when the com-
pensation shall
be less than
£20 provided
for.

XXVI. And be it enacted, that if any question shall arise touching the right of any party to any money or public securities arising from any such compensation or purchase money as aforesaid, and entrusted to, or vested in any Trustee or Trustees, or other person or persons, pursuant to the directions of this Act, the party by whom, or on whose behalf the Lands or other real property, estate or interest, for which the said money was payable, shall have been conveyed, warranted or quit claimed, to or in favor of the said Principal Officers, shall be held to have been lawfully entitled to convey the same, until it be proved by the judgment of some Court of competent jurisdiction, that some other person was entitled to such Lands or real property, estate or interest.

Parties con-
veying lands to
Principal Offi-
cers to be
deemed to have
been lawfully
entitled so to
do, until the
contrary be
proved in all
questions as to
any claims for
compensation.

XXVII. And be it enacted, that no enrollment of any deed conveying any lands or real property, or any estate or interest therein, to the said Principal Officers shall be necessary to vest the same in them, in trust as aforesaid; but it shall be lawful for the said Principal Officers at their option to cause any deed

Enrollment
of Deeds to
Principal Offi-
cers.

or

or instrument, not being a notarial instrument, relating to any lands or real property vested in them to be enrolled, upon payment of the usual Fees, in the office of the Provincial Registrar, without its being necessary for them to produce to that officer any proof of the execution of such deed or instrument; and a copy of such enrollment signed by the Provincial Registrar, and proved upon oath to be a true copy, shall for every purpose whatsoever be sufficient evidence of the contents of such deed or instrument in any Court of Law and Equity, and on every occasion shall have the same force and effect to all intents and purposes, as such deed, instrument or document would have, if the same were respectively produced and shewn forth.

Principal Officers to have the right of freeing Lands held by them from Seigniorial charges.

XXVIII. And whereas it is expedient that the said Principal Officers should have the power of freeing lands, or real property vested in them from all seigniorial rights, burdens and charges; Be it therefore enacted, that it shall be lawful for the said Principal Officers to pay or tender to the Seignior, within the *censive* of whose Seigniority any lands, or real property vested in them, shall lie, such sum as at the legal rate of interest would produce annually a sum equal to the *cens et rentes*, payable annually on such lands or real property, and a further sum equal to one fifth part of the price then last paid for the same, over and above all *lods et ventes* and arrears which may then have accrued and be due, and on such payment, or tender, such lands, or other real property shall be forever after freed from all Seigniorial rights, burdens and charges, and if thereafter conveyed to any other party by the said Principal Officers, shall be held *en franc aleu roturier* for ever.

Principal Officers may commute with Censitaires in Seigniories held by them as Her Majesty might have done without this Act.

Tenure of Lands after commutation.

XXIX. And be it enacted, that it shall be lawful for the said Principal Officers to grant to any *censitaire* holding lands or other real property within the *censive* of any seigniority vested in them, under the provisions of this Act, a commutation from all seigniorial rights, burdens and charges on such lands, or real property, on the same terms and conditions on which such commutation might be granted by Her Majesty without this Act; but the lands or real property with regard to which such commutation shall be granted, shall thereafter be held in *franc aleu roturier*, as shall also any lands or real property, which, being within the boundaries of any seigniority vested in the said Principal Officers under the provisions of this Act, shall be granted or conveyed by them to be holden otherwise than *en censive*: Provided always, that nothing herein contained shall prevent the said Principal Officers from granting any lands, or real property within any such seigniority to be held *en censive*, if they and the grantees shall so agree; Provided always, and be it enacted, that all lands taken from private owners

Lands taken at Bytown, for

owners at Bytown, under the authority of the Rideau Canal Act, for the uses of the Canal, which have not been used for that purpose, be restored to the party or parties from whom the same were taken.

the use of the Rideau Canal, to be restored to owners.

XXX. And be it enacted, that it shall be lawful for the said Principal Officers, and they are hereby authorized and empowered to bring, prosecute and maintain any action or actions of ejectment, or other actions and proceedings, either in law or equity for recovering possession of any lands or other real property vested in them, or to which they may become entitled under the provisions of this Act, or otherwise howsoever, and to distrain or sue for any arrears of rent or any other dues of any kind, which have become, or shall become due for, or in respect thereof, under any parol, or other demise, grant or concession from the said Principal Officers, or from Her Majesty of any person or officer acting for or on behalf of Her Majesty, or of any party holding such lands or real property in trust for Her Majesty, and also to bring, prosecute and maintain any other action, suit or proceeding in law or equity in respect of any such lands or other real property, or of any right or interest therein, or of any trespass, or encroachment committed thereon, or damage or injury done thereto, and also upon all covenants and contracts whatsoever, now or hereafter, to be made by, to, or with, the said Principal Officers, and in any way relating to such lands and real property, or to the service of the Ordnance Department, or the defence of this Province; and also to bring, prosecute and maintain any other action, suit or proceeding in law or equity, civil or criminal, concerning the goods, or chattels, stores, monies or other property under the care, control or disposition of the said Principal Officers, and in every such suit, action or other proceedings the said Principal Officers shall be called "The Principal Officers of Her Majesty's Ordnance," without naming them or any of them; And the said Principal Officers shall and may by the said names be sued, impleaded or prosecuted, and may answer and defend any suit, action, prosecution, or proceeding to be brought or instituted against them in any Court of Law or Equity in this Province, by any person or party whomsoever; and no suit, action or other proceeding to which the said Principal Officers shall be a party, shall abate, or be discontinued, or interrupted by the death, resignation or removal of such Principal Officers or any of them, any law to the contrary notwithstanding.

Principal Officers empowered to bring actions in matters relative to property held by them.

Style by which the Principal Officers may sue.

XXXI. And be it enacted, that all suits, actions or proceedings to be brought or instituted against the said Principal Officers, may be brought or instituted in the Court within the local jurisdiction whereof the Lands or other real property to which such suits, actions or proceedings may respectively relate shall be situate or the cause of action shall have arisen, and service of any process,

How suits are to be brought against the principal Officers of Ordnance and service of Process therein regulated.

cess, order, notice or other document required to be made in any suit, action or proceeding to which the said Principal Officers shall be a party, shall be deemed to be validly made, upon the said Principal Officers, by leaving a true copy thereof at the Office of the respective Officers of Ordnance within the local jurisdiction of the Court in which such suit, action or proceeding shall be brought or pending, or if there be no such office within the jurisdiction of such Court, then at the office of the Senior Civil Officer of Ordnance within such jurisdiction.

They may
recover costs.

XXXII. And be it enacted, that in all suits, actions, and other proceedings at law or in equity, in which a verdict shall pass, or judgment or decision shall be given for, or in favor of the said Principal Officers, the said Principal Officers shall in addition to all damages to which they may be entitled, have judgment for their full costs and charges in such suits, actions, or proceedings, to be assessed and taxed against the defendant or other opposing party, and to be recovered and levied in the same manner and form as they might have been assessed, taxed, recovered and levied in favor of any private party, and in all cases of judgments or decisions given against the said Principal Officers, they shall pay full costs and charges to the successful party.

Her Majes-
ty's privileges
and rights of
proceeding not
to be abridged.

XXXIII. Provided always, that nothing herein contained shall be taken to defeat or abridge in any such suit, action or other proceeding, the legal rights, privileges and prerogatives of Her Majesty, Her Heirs and Successors, but that in all such suits, actions and other proceedings brought or instituted in the name of the said Principal Officers, and in all matters relating thereto, it shall be lawful for the said Principal Officers to claim, exercise and enjoy all the same rights, privileges and prerogatives which have been heretofore claimed, exercised and enjoyed in any suits, actions or proceedings whatsoever in any Court of Law or Equity, by Her Majesty or Her Royal Predecessors, in the same manner as if the subject matter of such suits, actions or other proceedings were vested in Her Majesty, and as if Her Majesty were actually made a party to the same: Provided also, that it shall be lawful for Her Majesty, if so advised, to proceed by information in the proper Court of King's Bench or of Queen's Bench, or by any other Crown Process, legal or equitable, in any case in which such suits, actions or other proceedings might otherwise have been instituted by the said Principal Officers.

Name and
style to be a-
dopted by the
Principal Offi-
cers in all in-
struments, &c.

XXXIV. And be it enacted, that in all contracts of every description, and in all conveyances, surrenders, leases and other deeds, and in other instruments whatsoever, relating to the public service, which shall or may be made or entered into, by, to, or with the said Principal Officers, or whereunto they shall be a party, it shall be sufficient to call or describe them by the style and title of "The Principal Officers
of

of Her Majesty's Ordinance," without naming them or any of them, and all such contracts, conveyances, surrenders, leases and other deeds and instruments, wherein the said Principal Officers shall be so called and described as aforesaid, shall be as valid and effectual, and shall have the same force and effect to all intents and purposes whatsoever, as if the said Principal Officers had been particularly named and described therein, and with regard to their successors in office, as if such successors had made and entered into the same, and had been named and described therein.

XXXV. And be it enacted, that it shall be lawful for the said Principal Officers, and they are hereby authorized and empowered, to give any notice and make any entry, claim or demand which it shall be requisite or expedient to give or make on behalf of Her Majesty, with a view to compel any tenant, lessee or occupier of any lands or other real property which shall be vested in the said Principal Officers, under the provisions of this Act, to quit or deliver up possession thereof, or to compel the performance of any covenant, contract or engagement relating thereto, or to recover possession on non-performance of any covenant, contract or agreement, or to compel the payment of any sum of money which ought to be paid in respect thereof, and to give any other notice and make any claim or demand, or to do any other act or thing which it shall be requisite to make, give or do, on behalf of Her Majesty, touching or concerning any such lands or other real property, or any right, title or interest therein, and the same, being so made, given or done, shall be valid, and effectual to all intents and purposes whatsoever.

Power to give notices, make entries, &c. in matters relating to property held by them.

XXXVI. And be it enacted, that it shall be lawful for any two or more of the said Principal Officers, and they are hereby authorized and empowered to exercise and execute all powers, authorities and duties, and to perform, do and execute all acts, deeds, matters and things appertaining to their office which by virtue of this Act and by law, the said Principal Officers may exercise or execute, perform and do, and the same shall be as valid and effectual to all intents and purposes as if exercised, executed, performed and done by all the said Principal Officers: and it shall also be lawful for any two or more of the said Principal Officers, and they are hereby empowered from time to time, and as occasion may require, to authorize and empower any person or persons, or any Officer or Officers, by his or their name or title of Office, to exercise and execute all or any of the powers, authorities and duties, or to perform and do and execute any acts, deeds, matters and things which by virtue of this Act, the said Principal Officers may exercise, execute, perform or do, as validly and effectually as the said Principal Officers might exercise, execute, perform and do the same, and to revoke such authority at pleasure; and such authority, shall, notwithstanding the death, resignation or removal from office of the Principal Officers who shall have

Any two or more of the Principal Officers may act for the whole.

May depute all or any of their power under this Act to such person or officers as they may think proper.

Power of those deputed to remain notwithstanding the removal, &c. of any of the Principal Officers.

given

given the same, remain in force as if given by the Principal Officers for the time then being, until it shall be revoked by the Principal Officers for the time being, or any two of them.

Principal
Officers not to
be personally
responsible.

XXXVII. And be it enacted, that nothing contained in this Act, or to be contained in any covenant, contract, lease or other instrument hereby authorized to be entered into, made, taken or executed by the said Principal Officers, or any of them, or by any person or officer acting under them, shall extend to charge the persons of such Principal Officers, person, or officer, executing such covenant, contract, lease or other instrument, or their heirs, executors, administrators or other legal representatives, or their or any of their own proper lands and tenements, goods or chattels with the performance of any of the covenants, conditions and agreements in such covenants, contract or lease, or other instrument entered into on the part of such Principal Officers for the public service, and by their name of office as aforesaid; nor shall any Officer of Her Majesty's Ordnance be personally liable, nor shall any property of such Officer be liable to any legal process or execution in such suits, actions or other proceedings as aforesaid.

L. C.
2. V. c. 21.

L. C.
& 4 V. c. 18.

U. C.
3 V. c. 16

XXXVIII. And be it enacted, that, the Ordinance of the Governor and Special Council for the affairs of the late Province of Lower-Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance for vesting all the Estates and Property in the Province of Lower Canada, occupied for the Ordnance Service, in the Principal Officers of Her Majesty's Ordnance, and for granting certain powers to the said Principal Officers, and for other purposes therein mentioned*,—and the Ordinance of the Governor and Special Council for the affairs of the said late Province, passed in the Session held in the third and fourth years of Her Majesty's Reign, and intituled, *An Ordinance to render permanent the Ordinance therein mentioned relative to the Estates and Property, in this Province, occupied for the Ordnance Service*,—and the Act of the Legislature of the late Province of Upper-Canada, passed in the third year of Her Majesty's Reign, and intituled, *An Act to authorize Her Majesty to take possession of Lands for the erection of Fortifications in this Province under certain restrictions*,—shall be, and the said Ordinances and Act are hereby repealed.

Interpreta-
tion clause.

XXXIX. And be it enacted, that the words "Lower Canada," wheresoever they occur in this Act, or in the Schedule hereunto annexed, shall be held to mean all that part of this Province which formerly constituted the Province of Lower Canada, and the words "Upper Canada," to mean all that part of this Province which formerly constituted the Province of Upper Canada, and the words "Her Majesty" or "The Crown," shall be held to mean and include, Her Majesty and Her

Her Royal Predecessors and Successors; and all words importing the singular number or the masculine gender only, shall be held to include the plural number and females as well as males, unless the context shall clearly require that a more limited meaning be assigned to them.

XLI. And be it enacted, that this Act shall be a Public Act, and as such shall be taken notice of accordingly by all Judges, Justices of the Peace and others whom it may concern, without being specially alleged or pleaded.

This Act to
be a Public
Act.

SCHEDULE

Of certain of the Lands vested in the Principal Officers of Her Majesty's Ordinance, by this Act, referred to in the first section thereof.

The Military Reserves, and all Lands and other real property coming within the description of those intended to be vested in the said Principal Officers by this Act, and situate, lying or being, at or near the Cities, Towns and Places commonly known by the names following, that is to say:—Madawaska, Lake Temiscouata, the Grand Dégélé, Quebec, Three Rivers, William Henry or Sorel, Montreal, the Island of St. Helens, Isle Ronde adjoining the same, Longueuil, Laprairie, Chambly, St. John's or Dorchester, Isle-aux-Noix, Lachine, the Cascades, Chateauguay, the Cedars, Coteau du Lac, Carillon, Grenville and elsewhere within Lower Canada; Lancaster, Cornwall, Grant's Island opposite Brockville, Prescott, Kingston, Snake Island, Point Frederic, Point Henry, Cedar Island, Horse Shoe Island, Cataraqui, Kingston Mills, Bytown, Amherst Island, Mississauga Point, Cape Vizay or the Rock Marysburg, (Prince Edward District,) Toronto, Hamilton, Penetanguishene, Niagara, Queenston, Drummondville, Sherbrooke, Chippewa, Lyons' Creek, Fort Erie, Short Hills, London, St. Thomas, Chatham, Windsor, Sandwich, Amherstburg, Bois Blanc Island, Point Edward (Port Sarnia), Ronde Eau, on Lake Erie (Township of Harwich), Turkey Point, (Township of Charlotte, County of Norfolk, Talbot District,) or elsewhere within Upper Canada.

Places at
which certain
real property
vested in the
Principal Officers
is situate.

The Canal commonly called the Rideau Canal, made and constructed under, and by virtue of the powers and authorities contained in the Act of the Parliament of the late Province of Upper Canada, passed in the eighth year of the Reign of His late Majesty King George the Fourth, and intituled, *An Act to confer upon His Majesty certain powers and authorities necessary to the making, maintaining, and using the Canal intended to be completed under*

Rideau Ca-
nal and Lands.

His

His Majesty's directions for connecting the waters of Lake Ontario with the River Ottawa, and for other purposes therein mentioned, and the Lands and other real property, lawfully purchased and taken, or set out, and ascertained as necessary for the purposes of the said Canal, from the Crown Lands or Reserves, or Clergy Reserves, under the authority of the said Act, and more especially those marked and described as necessary for the said purposes, on a certain plan lodged by the late Lieutenant Colonel By, of the Royal Engineers, the officer then employed in superintending the construction of the said Canal, in the office of the Surveyor General of the said late Province, and signed by the said Lieutenant Colonel By, and now filed in the office of Her Majesty's Surveyor General for this Province, and all the works belonging to the said Canal, or lying or being on the said Lands.

Bytown
Lands bought
by Lord Dal-
housie.

The lot or parcel of Land containing four hundred and fifteen acres, or thereabouts, situate in the Township of Nepean, in the Dalhousie District, formerly in the Johnstown District, and purchased in the year one thousand eight hundred and twenty three, by the Right Honorable the late Earl of Dalhousie, then Governor in Chief of Lower Canada and Upper Canada, and acting for and on behalf of His late Majesty King George the Fourth, from Hugh Fraser, Esquire, and granted and conveyed to or in trust for His said late Majesty, His Heirs and Successors.

Grenville,
Chûte à Blon-
deau and Ca-
rillon Canals.

The several Canals constructed for the purpose of facilitating the navigation of the River Ottawa, lying on the left bank of that river and within Lower Canada; and known by the names of the Grenville Canal, the Chûte à Blondeau Canal, and the Carillon Canal, with all the works thereunto appertaining, and the Lands set apart, reserved, purchased or taken for the purpose of constructing the said Canal, or of facilitating the use thereof or other purposes thereunto relating.

Seigniory of
Sorel.

The Fief and Seigniory of Sorel, in the District of Montreal, in Lower Canada, with all seigniorial rights, privileges, advantages and profits thereunto appertaining, and all Domains and other Lands and real property therein now vested in the Crown, or in any persons, officers or other party in trust for the Crown.

CAP. XII.

An Act to prohibit the hunting and killing of Deer and other Game within this Province, at certain seasons of the year.

[9th December, 1843.]

WHEREAS it is expedient to amend the Laws now in force for the preservation of Deer and other Game in this Province, and to repeal an Act of the Legislature of the late Province of Upper Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Act to amend an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, An Act for the preservation of Deer within this Province, and to extend the provisions of the same and to prohibit shooting on the Lord's Day*; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said Act be, and the same is hereby repealed.

Preamble.

U. C. 2 V.
c. 12, cited.

The said Act
Repealed.

II. And be it enacted, that no person or persons shall within this Province after the first day of February in every year hereafter, take or kill in any manner whatever, any red or grey Deer, or any Moose, Elk, or other Deer, or any Fawn, until the first day of August.

Deer not to
be taken or killed
between 1st
February, and
1st August,

III. And be it enacted, that if any person shall take, hunt, shoot, kill, or destroy, any red or grey Deer, or any Moose, Elk, or other Deer or any Fawn, between the first day of February and the first day of August, or any Game called wild Turkey, Prairie Hen, or Grouse, Grouse-Pheasant, Partridge, Quail, or any or either of them, between the first day of February and the first day of September in every year, or shall sell, offer for sale, buy, receive or have in his or her possession any Venison or Game aforesaid between those periods (such Venison or Game having been killed after the first day of February in any year, the proof to the contrary whereof shall be upon the party charged,) or if any person shall take, shoot, kill or destroy or shall sell, offer for sale, buy, receive or have in his or her possession any Woodcock between the first day of February and the fifteenth day of July in any year, or if any person shall at any time hereafter erect, make or set either wholly or in part any pen, trap, gin, net, or snare, for the purpose or with the intention of entrapping, taking, or snaring any wild Turkey, within this Province,

any

No person to
take or kill cer-
tain kinds of
game between
certain periods
in each year.

any such person being convicted of any or either of the said offences before a Justice of the Peace, upon the oath or affirmation of one or more credible witness or witnesses, (which oath or affirmation the Justice is hereby authorized to administer) or upon view had of the offence by the said Justice himself, shall pay a fine or penalty not exceeding ten pounds nor less than ten shillings, current money of this Province, together with the costs and charges attending the proceedings and conviction.

Penalty.

How any person charged in writing with having offended against this Act shall be prosecuted.

IV. And be it enacted, that when any person shall be charged upon oath or otherwise in writing before any Justice of the Peace with any offence against this Act, the said Justice shall summon the person so charged to appear before him at a time and place to be named in such Summons; and if such person shall fail or neglect to appear accordingly, then (upon proof of due service of the Summons upon such person by delivering or leaving a copy thereof at his house, or usual place of abode, or by reading the same over to him personally,) the said Justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person and bringing him before himself or some other Justice of the Peace within the same district; and the Justice before whom the person charged shall appear or be brought, shall proceed to hear and determine the case.

In what form the conviction may be.

The form.

V. And be it enacted, that the Justice before whom any person shall be convicted of any offence against this Act, may cause the conviction to be drawn up in the following form, or in any other form of words to the same effect, as the case shall require, that is to say: "Be it remembered that on the day in the year of our Lord at in the County of (or District, Riding, or Division, as the case may be) A. B. of is convicted before me, C. D. one of Her Majesty's Justices of the Peace for the said County (or District, or Riding, or Division, as the case may be,) for that he the said A. B. did (specify the offence and the time and place when and where the same was committed, as the case may be;) and I, the said C. D. adjudged the said A. B. for his offence, to pay (immediately, or on or before the day of) the sum of £ and also the sum of for costs; and in default of payment of the said sums respectively, to be imprisoned in the Common Gaol of the said County, (or District, or Riding, or Division, as the case may be,) for the space of months, unless the said sums shall sooner be paid; and I direct that the said sum of pounds (the penalty) shall be paid as follows; (that is to say, one moiety thereof to the party charging the offence, and the other moiety to the Treasurer of the District, to be by him, the said Treasurer, applied according to the provisions of this Act.)

Given under my hand and seal, the day and year first above mentioned.

[L. S.]

C. D."

VI.

VI. And be it enacted, that a conviction under this Act shall not be quashed for want of form ; nor shall any warrant of commitment be held void by reason of any defect therein ; Provided that it be alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Conviction
not to be quashed
for want of
form.

Proviso.

VII. And be it enacted, that in default of payment of any fine imposed under the authority of this Act, together with the costs attending the same, within the period specified for the payment thereof at the time of conviction, by the Justice of the Peace before whom such conviction shall have taken place, it shall and may be lawful for such Justice of the Peace, (if he deems it expedient to do so) to issue his Warrant directed to any Constable to levy the amount of such fine and costs within a certain time, to be in the said Warrant expressed ; and in case no distress sufficient to satisfy the amount shall be found, it shall and may be lawful for him to commit the offender to the Common Gaol of the District wherein the offence was committed, for any term not exceeding three calendar months, unless the fine and costs shall be sooner paid.

Fine may be
levied by dis-
tress if not paid.

And for want
of distress the
offender may
be imprisoned.

VIII. And be it enacted, that the prosecution for every offence punishable under this Act shall be commenced within three calendar months after the commission of the offence, and not otherwise ; and the evidence of any inhabitant of the County, District, Riding or Division, in which the offence shall have been committed, shall be admitted and receivable, notwithstanding the penalty incurred by the offence may be payable for the benefit of the Township or Division where the offence shall have been committed : Provided that, in no case, shall the party, who makes the charge in writing before the Justice, be admitted as a witness in the case.

Limitation of
time for such
prosecution.

Who may be
a witness.

Proviso.

IX. And be it enacted, that any person who shall think himself aggrieved by any conviction or decision under this Act, may appeal to the next Court of General Quarter Sessions, which shall be holden not less than twelve days after the day of such conviction or decision, and if holden in less than twelve days, then to the next ensuing Court of General Quarter Sessions for the District wherein the cause of complaint shall have arisen : Provided that such person shall give to the other party a notice, in writing, of such appeal, and of the cause and matter thereof, within six days after such conviction or decision, and ten days, at least, before the Sessions, and shall also either remain in custody until the Sessions, or enter into recognizance with two sufficient sureties before any Justice of the Peace, conditioned, personally to appear at the Sessions and to try such appeal, and to abide the judgment of the Court thereupon, and to pay such costs as shall be by the Court awarded ; and upon such notice being given, and such recognizance entered into, the Justice shall liberate such person, if in custody ; and the Court,
at

Appeal given
to the Quarter
Sessions.

Condition of
appeal.

Court to hear
and determine
the same.

at such Sessions, shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the Court shall seem meet; and in case of the dismissal of the appeal and the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment.

Convictions
under this Act
to be transmit-
ted to the Quar-
ter Sessions.

X. And be it enacted, that every Justice of the Peace before whom any person shall be convicted of any offence against this Act, shall transmit the conviction to the next Court of General Quarter Sessions which shall be holden for the District wherein the offence shall have been committed, there to be kept by the proper officer, among the records of the Court.

Within what
time actions
must be bro't
for any thing
done in pur-
suance of this
Act.

XI. And for the protection of persons acting in the execution of this Act, Be it enacted, that all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the District where the fact was committed, and shall be commenced within three calendar months after the fact committed, and not otherwise; and notice, in writing, of such action, and of the cause thereof, shall be given to the defendant one calendar month, at least, before the action; and in any such action the defendant may plead the general issue, and give this Act, and the special matter in evidence, at any trial to be had thereupon; and no plaintiff shall recover in such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and if a verdict shall pass for the defendant, or the plaintiff shall become non-suit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs, as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases.

General issue
may be plead-
ed.

Plaintiff not
to recover after
tender of a-
mends, &c.

Application of
penalties.

XII. And be it enacted, that all sums of money to be awarded or imposed as fines or penalties, by virtue of this Act, shall be paid as follows (that is to say): one moiety thereof shall be paid to the party charging the offence in writing, before the Justice, and the other moiety shall be paid to the Treasurer of the District wherein the offence was committed, and shall be accounted for by such Treasurer, in the same manner as he is by law obliged to account for other monies deposited with, or paid over to him.

Act not to ex-
tend to Indians.

XIII. Provided always, and be it enacted, that nothing in this Act shall extend, or be construed to extend, to any Indians now or hereafter to be resident within the

the limits of this Province ; but nothing in this Act shall extend, or be deemed, taken, or construed to extend, to justify or authorize any person to have, receive, purchase or take from any Indian any Venison or other Game killed out of season, or between the period within which the taking or killing of game is prohibited by this Act.

Proviso.

XIV. And be it enacted, that this Act shall be deemed a public Act, and shall be taken notice of by all Courts of Law, Judges, Justices, and other persons, without specially pleading the same.

Act to be a
Public Act.

C A P. XIII.

An Act for the better preservation of certain species of Fish, in the Rivers and Waters of the Counties therein mentioned.

[9th December, 1843.]

WHEREAS a Petition from the Inhabitants of the County of Stanstead, praying that Legislative provision be made for preserving the fish called "Lunge" or "Maskinongé" in Lake Memphramagog, and other Lakes, and in the Rivers of the Eastern Townships of this Province, has been presented to the Legislature, and it is expedient to grant the prayer of the Petitioners, and to make Legislative provision for the purpose aforesaid, and also for the preservation of Salmon, and Salmon Trout, during the season when they run up the Rivers and Streams in the said Townships, and other places herein mentioned, to the places where they deposit their spawn ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that hereafter it shall not be lawful for any person or persons to take any fish called "Lunge" or "Maskinongé" or "Salmon Trout" in Lake Memphramagog, or in any other of the Lakes, Rivers or Streams in any of the Counties of Stanstead, Sherbrooke, Shefford, Missisquoi and Drummond, nor within the Counties of Essex and Kent, between the first day of the month of August and the first day of the month of December in every year, by means of spears or seines, or in any other way than by a single hook.

Preamble.

Time at which
certain fish
shall not be taken
except by
a single hook.

II.

Fish-pounds
not to be made
on the St. Francis,
nor Trout
to be taken ex-
cept in a cer-
tain way.

II. And whereas it is proper that the River St. Francis and its tributary Rivers and Streams should at all seasons remain open and unencumbered by fish pounds, so that Salmon may be left unmolested at and in ascending to their spawning places, and also that the Trout and other small fish when they run into the small streams and inlets for shade during the extreme heat of the summer, should not be taken with nets and baskets, or otherwise than by a single hook; Be it therefore enacted, that it shall not hereafter be lawful for any person or persons to build any fish pounds in the River St. Francis, or in any of its tributary Rivers or Streams, so as in any way to obstruct the main channels by means thereof, within any of the said Counties, for the purpose of taking Salmon, or to take any Trout or other small fish, when they run into the small streams, brooks or inlets, within any of the said Counties for shade during the Summer months, with nets or baskets, or in any other way than by a single hook.

Penalty for
offending a-
gainst this Act,

Proviso.

III. And be it enacted, that any person offending against the provisions of this Act, shall, on conviction thereof before one or more of Her Majesty's Justices of the Peace, incur a penalty not exceeding two pounds currency, to be fixed by such Justice or Justices in his or their discretion, according to the circumstances of the case, which penalty, if not paid within eight days by the party convicted, shall be levied by distress and sale of the goods and chattels of such party under the warrant of such Justice or Justices of the Peace, to be issued after the expiration of the said eight days, and one moiety of such penalty shall belong to Her Majesty for the public uses of the Province, and the other moiety to the Prosecutor: Provided always, that if the party or parties so convicted shall fail to pay such penalty and costs, and no goods and chattels can be found belonging to the said party or parties whereof to levy the same, then, and in such case, the said party or parties shall be by the said Justice or Justices committed to the Common Gaol of the District, for a period not in any case exceeding eight days, unless the said penalty and costs be sooner paid.

C A P . XIV.

An Act to Exempt Vehicles conveying Manure from the Cities and Towns of this Province, from the payment of Tolls on Turnpike Roads, and for the purposes therein mentioned.

[9th December, 1843.]

Preamble,

WHEREAS, as well for the encouragement of Agriculture as for promoting the cleanliness and health of the several Cities and Towns

Towns in this Province by the removal of the filth and rubbish thereof, it is expedient that Vehicles carrying Manure from the said Cities and Towns to the Farms in the vicinity thereof be free from Toll at Turnpike Gates; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that each and every Vehicle laden solely with Manure, brought from any City in Lower Canada, or any City or incorporated Town in Upper Canada, and employed to carry the same into the Country parts for the purposes of Agriculture, and the horse or horses, or other beast or beasts of draught, drawing such Vehicle, shall, from and after the passing of this Act, pass Toll-free through any Turnpike Gate or Toll-gate on any Turnpike Road within twenty miles of such City or Town, as well in going from such City or Town as in returning thereto, if then empty,—whether such Turnpike Road and the Tolls thereon belong to the Province, or to any local or Municipal authority, or Body of Trustees or Commissioners for local purposes, or to any incorporated or unincorporated Company, or to any other body, person or persons whatsoever, and any Statute, Ordinance or Law to the contrary notwithstanding.

Vehicles laden solely with Manure brought from the Cities and Towns of this Province to be Exempt from Toll at Turnpikes within twenty miles of such Cities or Towns.

II. And be it enacted, that all persons going to or returning from Divine Service on any Sunday or Obligatory Holiday, in or upon and with their own carriages, horses or other beasts of draught, shall, as shall also their families, and servants being in or upon and with such carriages, horses or other beasts of draught, pass Toll-free through any Turnpike or Toll-gate on any Turnpike Road in this Province; any thing in any Act, Ordinance or Law to the contrary notwithstanding.

No Tolls to be collected on Sundays from persons going to Church.

III. And be it enacted, that no Vehicle laden or unladen, horses or cattle belonging to the proprietor or occupier of any lands divided by such Turnpike Road as aforesaid, shall be liable to Toll on passing through any Toll-gate on such Road (at whatever distance the same may be from any City or Town) for the sole purpose of going from one part of the lands of such proprietor or occupier to another part of the same: Provided such vehicle, horses or cattle do not proceed more than half a mile along such Turnpike Road, either in going or in returning, for farming or domestic purposes only.


No Tolls to be charged for going on a Turnpike from one part of a person's land to another within half a mile.

IV. Provided always, and be it enacted, that nothing in the foregoing enactments of this Act shall extend or be construed to extend to any Toll Bridge, the tolls on which are vested in any party other than the Crown.

Act not to extend to any private Toll Bridge.

CAP. XV.

An Act to render the Judges of the Courts of King's Bench, in that part of this Province heretofore Lower Canada, independent of the Crown.

 November, 1843.]

Preamble.

Judges to hold
their offices
during good
behaviour.

May be re-
moved on Ad-
dress of Coun-
cil and As-
sembly.

When re-
moved may ap-
peal to Her
Majesty in
Council.

Appointment
by Governor
&c. until the

WHEREAS it is expedient to render the Judges of the Courts of King's Bench in that part of this Province which heretofore constituted the Province of Lower Canada, independent of the Crown; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,* and it is hereby enacted by the authority of the same, that the Judges of Her Majesty's Courts of King's Bench, within that part of this Province which heretofore constituted the Province of Lower Canada, shall hold their offices during their good behaviour, notwithstanding the Commissions which have been heretofore granted to them or either of them, may specify that the office is to be held during the pleasure of Her Majesty; and that from and after the passing of this Act the Commissions to the said Judges of the said Courts of King's Bench, and the Commissions to all Judges of any Court of Queen's Bench, or of any other Court of superior Civil and Criminal Jurisdiction, which shall or may hereafter be constituted in the room and stead of the said Courts of King's Bench, and which shall exercise the power and authority thereof, shall be made to them respectively to hold during their good behaviour; and that the Commissions of Judges of the said Courts for the time being, shall be, continue and remain in full force during their good behaviour, notwithstanding the demise of Her Majesty, or any of Her Heirs and Successors; any law, usage or practice to the contrary thereof in any wise notwithstanding:—Provided always, that it may be lawful for the Governor, Lieutenant Governor or Person Administering the Government of this Province, to remove any Judge or Judges of any of the said Courts upon the address of the Legislative Council and Legislative Assembly; and in case any Judge so removed shall think himself aggrieved thereby, it shall and may be lawful for him, within six months, to appeal to Her Majesty in Her Privy Council, and such motion shall not be final until determined by Her Majesty in Her Privy Council.

II. And be it further enacted, that when any Judge of any of the said Courts shall die, or shall resign his office, or be removed in the manner authorized by this

this Act, it shall and may be lawful for the Governor, Lieutenant Governor, or Person administering the Government of this Province, notwithstanding any thing hereinbefore contained, to appoint by Commission under the Great Seal of the Province, some fit and proper person to hold the said office until the Royal Pleasure shall be made known; and that such appointment shall be held to be superseded by the issuing of a Commission under the Great Seal of this Province, in the terms first directed by this Act to the same person, or to such other person as Her Majesty, Her Heirs, or Successors shall appoint in the place of any Judge, who has died, or resigned or been removed in the manner authorized by this Act, or by the signification within the Province of the Royal decision in the Privy Council, restoring to his office any Judge who may have been so removed.

Royal pleasure
be known how
superseded.

CAP. XVI.

An Act to repeal certain Acts and Ordinances therein mentioned, and to make better provision for the Administration of Justice in Lower Canada.

[9th December, 1843.]

WHEREAS experience hath shewn the necessity of making certain changes in the constitution and jurisdiction of the Courts of Law in Lower Canada, in order to render the Administration of Justice more easy and less expensive; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that a certain Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's reign, and intituled, *An Act to provide for the more easy and expeditious administration of justice in civil causes and matters involving small pecuniary value, in that part of this Province heretofore Lower Canada*, shall be and the same is hereby repealed, and the District Courts and Division Courts thereby established, shall be and the same are hereby abolished: Provided nevertheless, that all acts, ordinances and provisions of law repealed by the said Act shall remain repealed, and all Courts and Jurisdictions thereby abolished shall remain abolished.

Preamble.

Act of Canada, 4 & 5
Vic. c. 20, repealed.

Proviso.

Courts of King's Bench in L. C. to be called Courts of Queen's Bench in certain cases.

II. And be it enacted, that the several Courts in Lower Canada, heretofore called and known as Courts of King's Bench, shall hereafter be called and known as Courts of Queen's Bench, whenever the Sovereign on the Throne of the United Kingdom of Great Britain and Ireland is a Queen, and as Courts of King's Bench, whenever the Sovereign is a King; and the words "Court (or Courts) of Queen's Bench," when used in this Act shall be understood and applied accordingly; but this shall not be construed to make the said Courts new Courts, or in any way to affect their powers, or to make any new commission or letters patent necessary for any Justice or Officer thereof.

Powers of the Chief Justice and Puisné Justices, members of the same Court, to be equal.

III. And whereas it is inconvenient that there should be any difference in the powers and duties of the Chief Justices and Justices of the several Courts in Lower Canada; Be it therefore enacted, that the powers, duties and authority of any Chief Justice and of the Puisné Justices, members of the same Court of Queen's Bench, shall be equal and similar to all intents and purposes whatsoever, whether the same be to be exercised or performed in such Court or in any other, within or without the District for which such Court is constituted, in Court or out of Court, in term, or out of term, or in vacation, so that whatever power or duty might heretofore be exercised by any Chief Justice, shall and may hereafter be performed and exercised by any Puisné Justice, and whatever power or duty might heretofore be exercised by any Puisné Justice, shall and may hereafter be exercised or performed by any Chief Justice; and the words "Justice" or "Justices" wherever they occur in this Act, shall be understood to mean and include the Chief Justice, who shall be a member of any Court of Queen's Bench, as well as a Puisné Justice or the Puisné Justices of such Court, unless such meaning be inconsistent with the context; and the Provincial Judge for the district of St. Francis, shall be to all intents and purposes whatever, one of the Justices of the Court of Queen's Bench for the said District, and as such, shall, within the said District, have the same powers and authority as the other Justices of the said Court, and all writs and process issuing therefrom, shall be tested in his name; and the said Provincial Judge shall also have the same powers, authority and duty in and with regard to the Court of Queen's Bench, for the District of Three Rivers, as any Chief Justice or Puisné Justice of the Court of Queen's Bench for the District of Quebec, or for the District of Montreal: Provided always, that nothing herein contained shall affect the salary of the said Provincial Judge; any thing in any Act or law to the contrary notwithstanding: And provided also, that in order to ensure the performance of the duties of the resident Judge of the District of Three Rivers, and of the said Provincial Judge in certain cases, the Commissioner of Bankrupts in the District of Three Rivers shall, during each Superior Term of the Court of Queen's Bench at Sherbrooke, and during the
three

Provincial Judge of St. Francis.

His powers in future.

three days next before, and the three days next after such term, have within the District of Three Rivers the same powers as if he were appointed an Assistant Judge of the Court of Queen's Bench for the said District, and the Commissioner of Bankrupts in the District of St. Francis shall, during each Superior Term of the Court of Queen's Bench, at Three Rivers, and during the three days next before and three days next after such term, have within the District of St. Francis the same powers as if he were appointed an Assistant Judge of the said District : Provided always, that the powers hereby given to any such Commissioner of Bankrupts, shall not be exercised by him, except during the absence of the said Resident Judge or Provincial Judge from his District : Provided also, that such Commissioners of Bankrupts shall be advocates of at least five years' standing at the Bar of Lower Canada.

Proviso.

Proviso.

IV. And be it enacted, that when and so often as a vacancy shall occur in the office of Chief Justice of Lower Canada, the person to be appointed to fill that office may be appointed, as heretofore, to be a member of the Court of Queen's Bench for the District of Quebec, and to preside therein, or he may, at Her Majesty's pleasure, be appointed to be a member of the Court of Queen's Bench for the District of Montreal, and to preside therein, in which latter case a Chief Justice shall be appointed for the District of Quebec, to be a member of the Court of Queen's Bench for that District, and to preside therein ; any law to the contrary notwithstanding.

Provision as to the office of Chief Justice of Lower Canada.

V. And be it enacted, that no person shall be appointed to be a Justice of any of the Courts of Queen's Bench in Lower Canada, unless such person be, at the time of his appointment as aforesaid, an Advocate of ten years' standing at the Bar of Lower Canada ; nor shall any person be appointed to be one of the Circuit Judges hereinafter mentioned, unless such person be, at the time of his appointment as aforesaid, an Advocate of five years' standing at the said Bar ; and that no such Justice or Circuit Judge shall sit or vote in the Executive Council, or in the Legislative Council, or in the Legislative Assembly of this Province, or shall hold any other place of profit under the Crown in this Province, so long as he shall hold the said office of Justice of any of the said Courts of Queen's Bench, or of Circuit Judge.

Who may be appointed a Justice of Q.B.

Or a Circuit Judge.

Judges disqualified as members of Legislative Assembly, &c.

VI. And be it enacted, that it shall be lawful for the Governor of this Province, from time to time, and whenever by reason of illness or necessary absence, with permission of the Governor of this Province, or of suspension from office, any Justice of the said Courts of Queen's Bench for the Districts of Quebec or Montreal, or the resident Judge for the District of Three Rivers, or the Provincial Judge for the District of St. Francis, cannot sit in Court or perform his functions

Assistant Judges may be appointed in certain cases.

as

Powers of
an Assistant
Judge.

Proviso.

Judgments
from which an
appeal may lie
to be *motives*,
on pain of
nullity.

Court of
Queen's Bench
for the Dis-
trict of St.
Francis to
have cogni-
zance of crimes
and offen-
ces committed
in that Dis-
trict.

Proviso as
to past offen-
ces.

Part of the
Act of L. C.
34 Geo. 3, c. 6,
repealed.

as a Judge, to supply his place, and by an instrument under the Great Seal of this Province, to nominate, constitute and appoint some Advocate, of at least five years' standing at the Bar of Lower Canada, an Assistant Judge to sit and act in the place and stead of such Justice or Judge, as the case may be, during such illness, necessary absence or suspension from office; and the Assistant Judge to be so appointed shall have the same jurisdiction, power and authority, as well in Court, as out of Court, in term, as out of term, and in vacation, in any Court, District or place whatsoever, as the Justice or Judge, in whose place or stead he shall have been appointed, would himself have had if sitting or acting as such: Provided always, that nothing herein contained shall be construed to give precedence to any such Assistant Judge over any Puisne Justice of the Court.

VII. And be it enacted, that each final judgment, and each interlocutory judgment from which an appeal may lie, rendered by any Court of Queen's Bench in any Superior Term thereof, as well in any suit or action by default or *ex parte* which shall be dismissed, as in any suit or action where issue shall have been joined, shall contain a summary statement of the points of fact and law, and the reasons upon which such judgment shall be founded, and the names of the Justices who shall have concurred therein or entered their dissent therefrom.

VIII. And be it enacted, that the Court of Queen's Bench for the District of St. Francis shall have cognizance of all crimes and criminal offences committed within the said District, in like manner as the Court of Queen's Bench for the District of Three Rivers hath cognizance of crimes and criminal offences, committed within the same, and with like powers to the Judges and Officers of the Court in all matters incidental to or consequent upon the cognizance thereof: and the said District of St. Francis shall be separate and distinct from those of Montreal and Three Rivers respectively, as well for criminal as for civil matters: Provided always, that in all cases where the offender shall have been indicted or committed for trial in either of the said Districts of Montreal or Three Rivers, before this Act shall be in force, the Court of Queen's Bench for the District in which he shall have been so indicted, or in which he shall have been imprisoned, shall proceed to the trial of such offender, and with regard to all matters incident to or consequent upon such trial, as if this Act had not been passed.

IX. And be it enacted, that so much of a certain Act of the Legislature of the late Province of Lower Canada, passed in the thirty-fourth year of the reign of His late Majesty King George the Third, and intituled, *An Act for the division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain laws therein mentioned*, or of any other Act or Law as relates to the times for holding the several Terms or Sessions of the said Courts of Queen's Bench, shall

shall be and is hereby repealed; and Terms or Sessions of the said Courts, respectively, shall be holden at the times hereinafter appointed, in every year, that is to say: In the District of Quebec, for the cognizance of all crimes and criminal offences, from the first to the tenth day of each of the months of February and August, both days inclusive: In the said District, for the cognizance of all suits or actions of a civil nature, or where the Crown may be a party, cognizable by the said Courts in Superior Term, from the fifteenth to the twenty-ninth of each of the months of January and July—from the seventeenth to the thirty-first day of each of the months of March and May—and from the sixteenth to the thirtieth day of each of the months of September and November, both days in every case inclusive: In the District of Montreal, for the cognizance of all crimes and criminal offences, from the first to the fifteenth day of each of the months of February and August, both days inclusive: In the said District, for the cognizance of all suits or actions of a civil nature, or where the Crown may be a party, cognizable by the said Courts in Superior Term, from the fifteenth to the twenty-ninth day of each of the months of January and July—from the seventeenth to the thirty-first day of each of the months of March and May—and from the sixteenth to the thirtieth day of each of the months of September and November, both days in every case inclusive: In the District of Three Rivers, for the cognizance of all crimes and criminal offences, and of all suits or actions of a civil nature, or where the Crown may be a party, cognizable by the said Courts in the Superior Terms or Sessions thereof, from the twelfth to the twenty-sixth day of the month of February, and from the fourteenth to the twenty-eighth day of October, both days in each case inclusive; and for the cognizance of such suits or actions as aforesaid, but not for the cognizance of crimes and criminal offences, from the nineteenth to the twenty-eighth day of June, both days inclusive: In the District of St. Francis, for the cognizance of all crimes and criminal offences, and of all suits or actions of a civil nature, or where the Crown may be a party, cognizable by the said Courts in Superior Term, from the seventh to the eighteenth day of January, and from the nineteenth to the thirty-first day of August, both days inclusive; And the said Courts shall sit for the purposes aforesaid on each and every day during the said Terms or Sessions, Sundays and Holidays excepted; and every juridical day during the same shall be a Return day.

Terms of
Courts of Q. B.
when to be
holden.

Quebec.

Montreal.

Three Rivers.

St. Francis.

Days of sit-
ting and return
days.

Return of
process issued
before this Act
shall be in
force.

X. And be it enacted, that every writ or process issued before this Act shall be in force, which shall have been made returnable into any Court of Queen's Bench, in the exercise of its criminal or of its civil Jurisdiction on any day subsequent to the commencement of this Act, shall be returned into such Court of Queen's Bench on that juridical day of any Term of such Court held for the cognizance of matters of the nature of that in which such writ or process shall have issued, which shall be next after the day on which such writ or process shall have been made returnable.

XI.

Jurisdiction
of Courts of
Q. B. in supe-
rior term.

XI. And be it enacted, that the said Courts of Queen's Bench shall, in the Superior Terms thereof aforesaid, take cognizance of all suits or actions (those purely of Admiralty jurisdiction excepted) which shall not be cognizable by the said Courts in the Inferior Terms thereof hereinafter mentioned, or in the Circuit Courts hereinafter established, or which shall be evoked or otherwise removed from the said Inferior Terms, or from the said Circuit Courts, or from any other Court or Jurisdiction, into the said Superior Terms, and of such suits or actions only, unless in any case it be otherwise provided by this Act, and excepting always such suits, actions or proceedings, as shall be pending in any such Court of Queen's Bench immediately before the time when this Act shall come into force.

Enquêtes in
superior term.

XII. And be it enacted, that the *Enquêtes* in causes cognizable in the Superior Terms of the said Courts of Queen's Bench shall be taken before a single Justice, or before more than one Justice of the said Courts respectively, as well in Term as in Vacation; and that for that purpose it shall be lawful for the Justices of the Court to assign one room, or more than one room, in the Court-House in which the Court is held, for the taking of such *Enquêtes* therein, and to fix the number of clerks or writers whom the Clerk or Prothonotary of the Court shall employ for taking such *Enquêtes*, accordingly as the case shall require.

Trials by
jury in vaca-
tion.

XIII. And be it enacted, that the Justices of each of the said Courts of Queen's Bench, or any one of them, shall and they are hereby authorized, in all cases of trial by jury in civil matters, to try the issue of fact and to receive the verdicts of juries in Vacation between the Superior Terms of the said Courts, on such days as during the said Terms they shall have appointed for that purpose: any law to the contrary notwithstanding.

Case of the
recusation or
incompetency
of any Justice
of Q. B. pro-
vided for.

XIV. And be it enacted, that whenever any or more of the said Justices of any one of the said Courts of Queen's Bench shall be lawfully recused or disqualified, or rendered incompetent, either by interest or otherwise, to sit in such Court in the Superior Term thereof, in any cause cognizable therein, so as to leave the said Court without a quorum to take cognizance of such cause, it shall be the duty of the Clerk or Prothonotary of the said Court, when thereunto duly required in writing by any of the parties, to report the fact, under his hand and the seal of the Court, to the Governor of this Province; and it shall then be lawful for the Governor of this Province, by an instrument under his hand and seal, to appoint and empower, *ad hoc*, any one or more of the Justices of any other of the said Courts of Queen's Bench to sit in the place and stead of the said Justice or Justices, so recused or disqualified, or rendered incompetent, for the purpose of hearing and determining such cause; and the said Justice or Justices so appointed, *ad hoc*, when acting as such, shall have, during the continuance of such appointment,

appointment, the same powers and authority, in and with respect to the said cause, as the said Justice or Justices so recused, disqualified or rendered incompetent, would otherwise have had.

XV. And be it enacted, that whenever the four Justices of the Court of Queen's Bench for the District of Quebec or of Montreal shall be equally divided in any cause or matter, so that no judgment can be given therein, it shall be the duty of the Clerk or Prothonotary of the Court, when thereunto duly required in writing by any of the parties, to report the fact, under his hand and the seal of the Court, to the Governor of this Province; and it shall be lawful for the said Governor, by an instrument under his hand and seal, to appoint and empower any one of the Justices of any other of the said Court of Queen's Bench, or any Circuit Judge, to sit, *ad hoc*, with the Justices of the said Court so equally divided, for the purpose of hearing and determining the cause or matter in which they shall be so divided; and the Justice so appointed *ad hoc*, when acting as such, shall have, during the continuance of his said appointment, and with regard to such cause or matter, as aforesaid only, the same powers and authority as any other Justice of the said Court of Queen's Bench.

When the Court of Q. B. in Quebec or Montreal is equally divided, a report thereof to be made to the Governor, who may appoint a Judge, *ad hoc*.

XVI. And be it enacted, that if the defendant in any suit or action instituted in any Court of Queen's Bench in any Superior Term thereof, should not appear personally, or by his Attorney, on the day fixed for the return of the writ of summons, his default shall be recorded; and in such case it shall not be necessary that the said defendant be called on the third day, or at any other time thereafter, nor shall he be entitled to appear within the term of three days after the day of the return of the writ of summons, or at any other time after the said day, and have the said default taken off, unless express permission be given him by the Court, any law, usage or custom to the contrary notwithstanding; and after the said default shall have been so recorded, the Court shall proceed to hear, try and determine the said suit or action in due course of law; and every such writ of summons shall be served at least ten days (of which neither the day of service nor the day of the return shall be reckoned as one,) before the day fixed for the return thereof if there be not more than five leagues from the place of service of the writ to the place where the Court shall be held; and if, in any such case, there be more than five leagues, then there shall be an additional delay of one day for every additional five leagues.

Default cases provided for.

Delay between service and return of summons.

XVII. And be it enacted, that all writs of summons issuing from any Court of Queen's Bench, and returnable in any Superior Term thereof, except writs of *capias ad respondendum*, *saisie arrêt* before judgment, *saisie gagerie* or *saisie revendication*, shall be directed to and executed and returned by any of the Bailiffs

Certain writs of summons to be directed to Bailiffs.

Others to
Sheriffs.

Bailiffs of such Court, any law or custom to the contrary notwithstanding : save and except all cases where any such writ shall be to be executed, wholly or in part, in any District other than that for which such Court is established, in which cases the said writs of summons, as well as writs of *capias ad respondendum*, *saisie arrêt* before judgment, *saisie gagerie* or *saisie revendication*, in all cases in Superior Term, except those with regard to which other provision is hereinafter made, shall continue to be directed to and executed and returned by Sheriffs as heretofore ; and when any such writ of summons shall be directed to Bailiffs as aforesaid, the copies of the same to be served upon parties according to law, shall be certified as true copies, either by the Clerk or Prothonotary of the said Court, or by the Attorney of the party suing out such writ.

Copies, how
certified in the
first case.

Writs or
process to be in
both lan-
guages.

XVIII. And be it enacted, that every writ or process issuing out of any Court of Queen's Bench, (whether in the superior or in the inferior term thereof,) or out of any of the Circuit Courts hereinafter established, shall be in both the English and the French languages, any law, usage or custom to the contrary notwithstanding.

Inferior terms,
when to be
holden.

XIX. And be it enacted, that Inferior Terms of each of the said Courts of Queen's Bench shall be held by the Chief Justice, or one of the Puisné Justices thereof, in each of the said Districts of Quebec, Montreal, Three Rivers and Saint Francis, at the times hereinafter appointed, in every year, and at the places in which the said Courts are by law directed to sit in Superior Term, that is to say : In the said Districts of Quebec and Montreal, from the seventeenth to the twenty-third day of February ; from the twenty-fourth to the thirtieth day of April ; from the twenty-first to the twenty-seventh day of each of the months of June, August and October ; and from the first to the seventh day of December, both days in every case inclusive : In the said District of Three Rivers, by the Resident Judge for that District, from the first to the seventh day of each of the months of February, April, June, August, October and December, both days in every case inclusive : In the said District of Saint Francis, by the Provincial Judge of the said District, from the first to the seventh days of each of the said months of February, April, June, August, October and December, both days in every case inclusive.

In Quebec
and Montreal.

In Three
Rivers.

In St. Francis.

Jurisdiction of
the Courts of
Q. B. in infe-
rior term.

XX. And be it enacted, that the said Courts of Queen's Bench, in the said Inferior Terms thereof, shall have cognizance of, hear, try and determine, in a summary manner, all civil suits or actions, or where the Crown may be a party, (those purely of Admiralty jurisdiction excepted,) wherein the sum of money or the value of the thing demanded shall not exceed the sum of twenty pounds currency, and wherein no writ of *capias ad respondendum* shall be sued out ; and if
the

the said sum or value shall not exceed six pounds five shillings currency, then the suit or action shall be determined according to equity and good conscience: Provided always, that if any such suit or action shall relate to any title to lands or tenements, or to any sum of money payable to Her Majesty, or to any fee of office, duty or rent, revenue, annual rents, or such like matters or things, where the rights in future may be bound, or shall be a suit or action in which a trial by jury may by law be had, it shall be lawful for the party defendant, before making his defence to the merits of any such suit or action, to evoke the same, and by such evocation to require that the said suit or action be removed and carried to hearing, trial and judgment in the same Court sitting in Superior Term, and every such evocation shall be filed and entered on record, and the said suit or action shall thereupon be removed into the Superior Term of the Court; which Court, so sitting in Superior Term, shall proceed to hear and determine, in a summary manner, whether the said evocation be well founded; and if it should maintain the said evocation, and adjudge the same to be well founded, proceedings shall thereupon be had in the said Court so sitting in Superior Term, to trial, judgment and execution, according to the rules of proceeding in such Superior Term, and as if the said suit or action had been originally instituted in the said Superior Term; and if the said evocation should be overruled, the said suit or action shall be remitted to the next Inferior Term of the Court, there to be heard, tried and finally determined.

Proviso—Evocation in certain cases by defendant.

Proceedings on evocation.

XXI. And be it enacted, that if in any suit or action which may be so evoked, as aforesaid, the defendant shall not evoke the same, but shall make any plea or defence by which the plaintiff's title to any lands or tenements shall be disputed or called in question, or by which, if maintained, his rights in future would be impaired or injuriously affected, it shall then be lawful for the plaintiff to evoke such suit or action, in the same manner and with the same effect, as the defendant might have done, and such evocation, and the suit or action so evoked, shall be subject to the provisions herein-before made as to suits or actions evoked by the defendant.

Evocation by plaintiff, in consequence of the nature of defendant's plea.

XXII. And be it enacted, that each of the said Courts of Queen's Bench, in the Inferior Terms thereof, shall have concurrent jurisdiction, throughout the District for which it is established, with the Circuit Courts hereinafter mentioned, sitting within the said District: Provided always, that if any action which might have been brought at a Circuit Court, shall be brought at any such Inferior Term, no greater sum shall be recoverable by the plaintiff as costs for mileage or allowance to witnesses than would have been incurred if the action had been brought at such Circuit Court, unless the action shall have been brought at the Inferior Term with the consent of the defendant.

Jurisdiction of Q. B. in inferior term to be over the whole District.

Proviso.

XXIII.

Certain cases under £20 to be cognizable in superior term.

Proviso.

Proviso—Cases when the Judge holding the Court shall be a party.

Word "sterling" how to be understood in certain Acts, &c.

Circuit Judges to be appointed in the Districts of Quebec and Montreal; their powers and duties.

XXIII. Provided always, and be it enacted, that the said Courts of Queen's Bench, sitting in Superior Term, shall have original cognizance of, hear, try and determine, in due course of law, any suit or action in which a writ of *capias ad respondendum* shall be sued out, or in which a trial by Jury may by law be had, and the plaintiff shall, in and by his declaration therein filed, declare his choice and option to have a trial by Jury, although the sum of money, or the value of the thing demanded, in any such suit or action, shall not exceed or shall be under twenty pounds currency: Provided always, that such declaration of the choice and option of the plaintiff to have a trial by Jury shall bind all parties to proceed accordingly, whenever the suit or action shall be ready for such trial; nor shall any other mode of trial be allowed therein, except by consent of all the parties; and saving always, the discretionary power of the Court over the costs in any case it may deem to have been vexatiously or unnecessarily brought in or removed into a Superior Court, instead of being brought or left to be determined in any Inferior Court in which it would have been cognizable: Provided also, that the Court of Queen's Bench for the District of Three Rivers, in Superior Term, shall have original cognizance of any suit or action to which the Resident Judge of that District shall be a party, and the Court of Queen's Bench for the District of St. Francis, in Superior Term, shall have original cognizance of any suit or action to which the Provincial Judge of the said District shall be a party, and which would otherwise be cognizable in the said Courts, respectively, in Inferior Term, but such suit or action shall be heard, tried and determined, in a summary manner, according to the course and practice of the Inferior Term, and with like costs.

XXIV. And be it enacted, that the word "Sterling," in any Act or Ordinance relative to the Administration of Justice, and in force in Lower Canada, shall, with regard to any suit or action to be commenced after this Act shall come into force, and with regard to all proceedings therein, be held to have the meaning assigned to the said word by the Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's reign, and intituled, *An Act to regulate the Currency of this Province*, that is to say: each pound Sterling, in any sum mentioned in such Act or Ordinance, shall be held to be equal to one pound four shillings and four pence, Currency.

XXV. And be it enacted, that it shall be lawful for the Governor of this Province, by instruments under the Great Seal thereof, to appoint not more than three persons to be and to be called Circuit Judges, in and for the District of Quebec, and not more than four persons to be and to be called Circuit Judges, in and for the District of Montreal, and from time to time remove any or all of them; and the persons so appointed shall, by virtue of such appointment, be also Commissioners

Commissioners of Bankrupts and Justices of the Peace, and shall act as Chairmen of the Quarter Sessions, in and for the Districts for which they shall be respectively appointed; and all the powers and duties vested in or assigned to any Commissioner of Bankrupts, in the said Districts of Quebec and Montreal, by any Act, Ordinance or Law, shall be and are hereby assigned and transferred to and vested in the Circuit Judges aforesaid, and shall be exercised by no other person or officer whomsoever in the said Districts, respectively : and the said Circuit Judges shall also have such powers and duties as are hereinafter assigned to them, or as may be assigned to them by any other Act of the Legislature ; and all the powers and duties so assigned to any two or more Circuit Judges, in any of their qualities aforesaid, appointed in and for the same District, may be exercised and performed by each and every of them singly, (and alternately if need shall be) in like manner as powers and duties assigned to the Justices of any Court may be exercised in matters wherein any one of such Justices is empowered to sit or act singly, and in such manner also as that any Circuit Judge may continue or complete any matter or proceeding begun or continued by any other Circuit Judge in and for the same District, or begun or continued before this Act shall be in force by any Commissioners of Bankrupts, Chairman of the Quarter Sessions, or Justice of Peace in the same District ; but nothing herein contained shall prevent any two or more of the Circuit Judges for any District from sitting or acting together, if they shall deem it expedient, in any matter with regard to which it shall not be otherwise provided by this Act : Provided always, that no such Circuit Judge shall act as Advocate, Attorney or Counsel, in any Court of Law in Lower Canada, or in or with regard to any matter pending in or to be brought before any such Court.

How such powers may be exercised.

Proviso—No Circuit Judge to act as an Attorney &c.

XXVI. And be it enacted, that so much of the Ordinance of the Governor and Special Council aforesaid, passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance concerning Bankrupts, and the administration and distribution of their estates and effects*, as may be in any wise inconsistent with the enactments and provisions of this Act, and more especially so much of the Ordinance last cited as may be construed to provide for the appointment of Commissioners of Bankrupts in the Districts of Quebec and Montreal, shall be, and so much of the said Ordinance is hereby repealed : Provided always, that nothing in this Act shall be construed to derogate from the powers or authority of any Commissioner of Bankrupts appointed or to be appointed in any of the other Districts of Lower Canada, or to prevent the Governor of this Province from appointing such number of Commissioners of Bankrupts in the said other Districts as he may deem it expedient to appoint : And provided further, that the Commissioners of Bankrupts appointed or to be appointed in such other Districts, respectively, shall be *ex officio*, Justices of the Peace, and shall be Chairmen of the Quarter Sessions in and for the

Police Ordinance 2 Vic. (1) c 2, certain parts thereof, and of 2 Vic. (3) c. 36, repealed.

Proviso.

Proviso.

the Districts in which they shall be respectively resident: but nothing in this Act shall be construed to render any Court of Quarter Sessions incompetent by reason of the absence of any Circuit Judge or Commissioner of Bankrupts, who if present, would be the Chairman of the Court: And provided also, that the provisions of the Act passed in the sixth year of Her Majesty's Reign, and intituled, *An Act for the qualification of Justices of the Peace*, shall not extend to any Circuit Judge or Commissioner of Bankrupts, any thing in the said Act to the contrary notwithstanding.

6 Vic. c. 3. —

Salary of each
Circuit Judge.

Fee Fund.

XXVII. And be it enacted, that the salary of each of the said Circuit Judges shall not exceed five hundred pounds per annum, and such Salary shall be in lieu of all fees, emoluments, or allowances whatever, whether for travelling expenses or otherwise: Provided always, that the fees and emoluments heretofore payable to any Commissioner of Bankrupts in the Districts of Quebec and Montreal, shall continue to be payable and shall be paid, under the same provisions of law, to the Circuit Judges who shall become Commissioners of Bankrupts as aforesaid, but shall by them be accounted for and paid over, at such times and in such manner as the Governor of this Province shall from time to time appoint to the Receiver General of this Province, and shall form part of the Consolidated Revenue Fund thereof, and shall be accounted for to Her Majesty, in the same manner as any other moneys forming part of the said Fund.

Circuit Courts
to be holden,
and by whom.

Jurisdiction
of Circuit
Court.

Evocation.

XXVIII. And be it enacted, that Courts of Record to be called Circuit Courts, shall be holden every year in each of the said Districts of Quebec, Montreal, Three Rivers and St. Francis, in the manner following, that is to say: In the District of Quebec, by the Chief Justice, or any other of the Justices of the Court of Queen's Bench for that District, or by one of the Circuit Judges for the same; and in the District of Montreal, by the Chief Justice or by any other of the Justices of the Court of Queen's Bench for that District, or by one of the Circuit Judges for the same: Provided, that one Circuit Judge be always left in each of the Cities of Quebec and Montreal: In the District of Three Rivers, by the Resident Judge for that District; and in the District of St. Francis, by the Provincial Judge of that District: and that every such Circuit Court, within the limits of the Circuit thereof, shall have concurrent jurisdiction with the Court of Queen's Bench for the same District in Inferior Term, and shall accordingly have cognizance of suits and actions of the class and nature of those cognizable by the said Court in Inferior Term, subject to the same provisions as to the mode in which they shall be brought, heard, tried and determined, and as to the evocation thereof to the Superior Term of the said Court of Queen's Bench, and the consequences of such evocation; except only, that if such evocation be not maintained, the said Court sitting in Superior Term may in its discretion remit the cause

cause either to the Circuit Court from which it shall have been evoked, or to the Inferior Term of the said Court of Queen's Bench, to be dealt with as if it had been originally brought in the said Inferior Term.

XXIX. And be it enacted, that it shall be lawful for any person under the age of twenty-one years, and above the age of fourteen years, to prosecute any suit in any Inferior Term or Circuit Court held under this Act, for any sum of money not exceeding six pounds five shillings, currency, which may be due to him for wages, in the same manner as if he were of full age; any law to the contrary notwithstanding.

Minors may
sue for wages
in certain
cases.

XXX. And be it enacted, that the said Circuit Courts shall be holden in every year at the times and places hereinafter appointed; and the local extent and limits of the jurisdiction of each of the said Circuit Courts, respectively, shall be as follows, that is to say:

In the said District of Quebec :

In the parish of St. Germain, in and for the Circuit to be called the Rimouski Circuit, from the first to the seventh day, inclusively, of each of the months of February, June and October; and the said Circuit shall include and consist of the County of Rimouski, except the Parishes of Rivière du Loup and Cacona;

Rimouski
Circuit.

In the Parish of St. Louis de Kamouraska, in and for the Circuit to be called the Kamouraska Circuit, from the tenth to the sixteenth day, inclusively, of each of the months of February, June and October: and the said Circuit shall include and consist of the County of Kamouraska, and the Parishes of Rivière du Loup and Cacona;

Kamouraska
Circuit.

In the Parish of St. Thomas, in and for the Circuit to be called the St. Thomas Circuit, from the nineteenth to the twenty-fifth day, inclusively, of each of the months of February, June and October: and the said Circuit shall include and consist of the County of L'Islet, including so much of the Parish of St. Pierre, Rivière du Sud, as may be within the County of Bellechasse and the Parishes of Berthier, St. Vallier, St. Michel and St. François, Rivière du Sud, in the County of Bellechasse;

St. Thomas
Circuit.

In the Parish of Ste. Marie, Nouvelle Beauce, in and for the Circuit to be called the Beauce Circuit, from the thirteenth to the nineteenth day, inclusively, of each of the months of February, June and October; and the said Circuit shall include and consist of the County of Dorchester, (except the Seigniorship of Lauzon;)

Beauce Cir-
cuit.

In

Leeds Circuit.

In the Township of Leeds, in and for the Circuit to be called the Leeds Circuit, from the seventh to the thirteenth day, inclusively, of each of the months of January, May and September, and the said Circuit shall include and consist of the County of Megantic, and the Parishes of St. Sylvester and St. Giles in the County of Lotbinière ;

Lotbinière Circuit.

In the Parish of Ste. Croix, in and for the Circuit to be called the Lotbinière Circuit, from the seventh to the thirteenth day, inclusively, of each of the months of January, May and September ; and the said Circuit shall include and consist of the County of Lotbinière, except the Parishes of St. Sylvester and St. Giles ;

Portneuf Circuit.

In the Parish of Cap Santé, in and for the Circuit to be called the Portneuf Circuit, from the seventh to the thirteenth day, inclusively, of each of the months of January, May and September ; and the said Circuit shall include and consist of the County of Portneuf ;

Saguenay Circuit.

In the Parish of Les Eboulemens, in and for the Circuit to be called the Saguenay Circuit, from the first to the seventh day, inclusively, of each of the months of March, July and November ; and the said Circuit shall include and consist of the County of Saguenay ;

In the said District of Montreal :

Berthier Circuit.

In the Parish of Berthier, in and for the Circuit to be called the Berthier Circuit, from the first to the seventh day, inclusively, of each of the months of March, July and November ; and the said Circuit shall include and consist of the County of Berthier, and all the Islands in the River St. Lawrence, which lie within the County of Richelieu, except those on the south side of the main or ship Channel ;

Assumption Circuit.

In the Parish of St. Pierre de l'Assomption, in and for the Circuit to be called the Assumption Circuit, from the ninth to the fifteenth day, inclusively, of each of the months of March, July and November ; and the said Circuit shall include and consist of the County of Leinster, except the Parishes of Lachenaye, St. Henri de Mascouche and St. Lin ;

Terrebonne Circuit.

In the Parish of St. Louis de Terrebonne, in and for the Circuit to be called the Terrebonne Circuit, from the seventh to the thirteenth day, inclusively, of each of the months of January, May and September ; and the said Circuit shall include and consist of the County of Terrebonne, and the said Parishes of Lachenaye, St. Henri de Mascouche and St. Lin, in the County of Leinster ;

In

In the Parish of St. Benoit, in and for the Circuit to be called the Two Mountains Circuit, from the seventeenth to the twenty-third day, inclusively, of each of the months of February, June and October; and the said Circuit shall include and consist of the County of Two Mountains, except Isle Bizarre;

Two Mountains Circuit.

At the village of Aylmer, in and for the Circuit to be called the Ottawa Circuit, from the seventh to the thirteenth day, inclusively, of each of the months of January, May and September; and the said Circuit shall include and consist of the County of Ottawa;

Ottawa Circuit.

In the Parish of St. Michel de Vaudreuil, in and for the Circuit to be called the Vaudreuil Circuit, from the tenth to the sixteenth day, inclusively, of each of the months of February, June and October; and the said Circuit shall include and consist of the County of Vaudreuil;

Vaudreuil Circuit.

In the Parish of St. Clément de Beauharnois, in and for the Circuit to be called the Beauharnois Circuit, from the seventeenth to the twenty-third day, inclusively, of each of the months of February, June and October; and the said Circuit shall include and consist of the County of Beauharnois, except the Township of Hemmingford;

Beauharnois Circuit.

In the Parish of St. John the Evangelist, in and for the Circuit to be called the St. John's Circuit, from the first to the seventh day, inclusively, of each of the months of February, June and October; and the said Circuit shall include and consist of the Seigniories of Lacolle and De Léry, and the Islands in the River Richelieu lying wholly or partly opposite the same, and the Township of Sherrington, all in the County of Huntingdon,—the Township of Hemmingford in the County of Beauharnois,—the Parishes of St. John the Evangelist and St. Luc, in the County of Chambly,—and the Parish of Ste. Marguerite de Blairfindie, lying partly in the County of Chambly and partly in that of Huntingdon,—the County of Missisquoi, except the Townships of Dunham and Sutton,—and the County of Rouville, except the Parishes of St. Mathias, St. Hilaire and St. Jean Baptiste de Rouville;

St. John's Circuit.

At or near the West Church, in the Township of Shefford, in and for the Circuit to be called the Shefford Circuit, from the ninth to the fifteenth day, inclusively, of each of the months of March, July and November; and the said Circuit shall include and consist of the County of Shefford, (except the Township of Milton,) of so much of the County of Stanstead as does not lie in the District of St. Francis, and of the Townships of Dunham and Sutton, in the County of Missisquoi;

Shefford Circuit.

At

P

St. Hyacinthe
Circuit.

At the Village of St. Hyacinthe, in and for the Circuit to be called the St. Hyacinthe Circuit, from the tenth to the sixteenth day, inclusively, of each of the months of February, June and October ; and the said Circuit shall include and consist of the County of St. Hyacinthe, the Township of Milton, in the County of Shefford, the Parishes of St. Charles and St. Barnabé, in the County of Richelieu, and the Parishes of St. Hilaire and St. Jean Baptiste de Rouville, in the County of Rouville ;

Richelieu Cir-
cuit.

In the Parish of St. Ours, in and for the Circuit to be called the Richelieu Circuit, from the seventh to the thirteenth day, inclusively, of each of the months of January, May and September ; and the said Circuit shall include and consist of the County of Richelieu, (except the Parishes of St. Charles and St. Barnabé, and the Islands in the said County which lie in the River St. Lawrence, on the north side of the Main or Ship Channel,) and of the Parishes of Contrecoeur and St. Antoine, in the County of Verchères ;

Yamaska Cir-
cuit.

In the Parish of St. Antoine de la Baie du Fevre, in and for the Circuit to be called the Yamaska Circuit, from the twenty-third to the twenty-ninth day, inclusively, of each of the months of January, May and September ; and the said Circuit shall include and consist of the County of Yamaska and the Seignior of Nicolet, and its augmentation, in the County of Nicolet, and so much of the County of Drummond as lies within the District of Three Rivers, except the Townships of Aston, Bulstrode, Stanfold and Arthabaska ;

Gentilly Cir-
cuit.

In the Parish of Gentilly, in and for the Circuit to be called the Gentilly Circuit, from the fifteenth to the twenty-first day, inclusively, of each of the months of March and July, and from the twenty-third to the twenty-ninth day of the month of November ; and the said Circuit shall include and consist of all that part of the District of Three Rivers, lying on the south side of the River St. Lawrence, which is not included in the Yamaska Circuit ;

In the said District of St. Francis :

Richmond
Circuit.

At the Village of Richmond, in the Township of Shipton, in and for the Circuit to be called the Richmond Circuit, from the twenty-third to the twenty-ninth day, inclusively, of each of the months of January and July ; and the said Circuit shall include and consist of the Townships of Durham, Kingsey, Tingwick and Chester, in the County of Drummond, and the Townships of Shipton, Melbourne, Brompton and Windsor, in the County of Sherbrooke ;

At

At Eaton Corner, in the Township of Eaton, in and for the Circuit to be called the Eaton Circuit, from the sixteenth to the twenty-second day, inclusively, of each of the months of March and September; and the said Circuit shall include and consist of the Townships of Eaton, Newport, Clifton, Hereford, Hampden, Chesham, Emberton, Bury, Lingwick, Stratford, Marston, Ditton, Clinton, Auckland, and Whitton, all in the County of Sherbrooke;

Eaton Circuit.

At Stanstead Plain, in the Township of Stanstead, in and for the Circuit to be called the Stanstead Circuit, from the sixteenth to the twenty-second day, inclusively, of each of the months of May and December; and the said Circuit shall include and consist of the Townships of Stanstead, Barnston, Barford, and Hatley, and so much of the Township of Bolton as lies within the District of Saint Francis;

Stanstead Circuit.

Provided always, that the three first Juridical days only of each Term shall be Return days; and at the close of the third Juridical day, or at any time thereafter, the Judge may, if there be then no business before the Court, close the sitting thereof until the then next term: Provided also, that if by illness, accident or any other cause, the Judge by whom any Circuit Court ought to be holden shall not be present on the first or any other Juridical day, being a Return day in any Term, it shall be lawful for the Clerk of such Circuit Court to receive all returns to be made on such day, and to cause any defendant, or party summoned, to appear on such day to be called, and to enter his appearance or record his default, notwithstanding the absence of the Judge;

Proviso.

Proviso.

XXXI. And be it enacted, that in any suit or action to be brought either in any Circuit Court or in any Inferior Term of the said Courts of Queen's Bench, the first process to be issued for bringing the defendant before the said Courts respectively, to answer the *demande* made in such suit or action, shall be a writ of summons, in which the plaintiff's cause of action shall be briefly stated, unless there shall be attached to such writ of summons a declaration setting forth the cause of action, in which case it shall be sufficient that in the writ of summons reference be made to the declaration for the cause of action; and such writ of summons may be in the form contained in the Schedule (A.) to this Act subjoined; and shall be served at least six days before the day fixed for the return thereof, if there be not more than five leagues from the place of service to the place where the Court shall be held; and if, in any such case, there be more than five leagues, then there shall be an additional delay of one day for every additional five leagues; and such writ of summons shall be directed to and executed by any Bailiff of the Court of Queen's Bench in and for the District in which the same shall have been issued, any law or custom to the contrary notwithstanding; and

Mode of commencing suits in inferior term or Circuit Courts.

Delay between service and return of summons, and by whom to be served.

and the copies of the writ of summons, and of the declaration, if any there be, to be served upon parties according to law, shall be certified as true copies, either by the Clerk or Prothonotary of the Court, or by the Attorney of the plaintiff: Provided always, that in all cases cognizable by the Courts of Queen's Bench in Inferior Term, or by any Circuit Court, where such writ of summons may by law be executed in any District other than the District in which the same shall have issued, such writ of summons shall be directly addressed to the Sheriff of such other District, and being endorsed by any Justice of the Court of Queen's Bench for such District, or by any Circuit Judge for the same, shall be executed and returned by such Sheriff to the Court from which it shall have issued, according to the exigency of such writ and to law.

Proviso.

Jurisdiction of Circuit Courts where there shall be more than one defendant.

XXXII. And be it enacted, that if there be two or more defendants in any suit or action instituted in any Circuit Court, it shall be sufficient to give jurisdiction over all the said defendants to the Circuit Court in which such action may be brought, that any one of the said defendants be domiciliated, or have been legally served with process within the limits of the Circuit for which such Court shall be held, and that all the said defendants be legally served with such process, within the limits of the District in which the Circuit shall lie: Provided always, that the process may in such cases be served out of the limits of the Circuit, by any Bailiff of the Court of Queen's Bench in and for the District in which such process shall have issued.

Proviso.

Circuit Court may require that a new and more special declaration be filed, &c.

XXXIII. And be it enacted, that in any suit or action instituted in any Circuit Court, or in any Court of Queen's Bench in Inferior Term, it shall be lawful for the said Courts, respectively, in their discretion, to require the plaintiff to file a new declaration, setting forth in a more special manner the cause of action, or to require that any pleading be in writing, if they shall deem it more conducive to the ends of justice.

Proceedings on the return of the summons.

Defaults.

XXXIV. And be it enacted, that if the defendant in any suit or action instituted either in any Court of Queen's Bench in Inferior Term, or in any Circuit Court, shall not appear personally or by his Attorney, on the day fixed for the return of the writ of summons, his default shall be recorded; and in any such case it shall not be necessary that the defendant be called on the third day, or at any other time thereafter, nor shall he be entitled to appear within the term of three days after the return of the writ of summons, or at any other time, and have the said default taken off, (as heretofore allowed by law in certain cases,) unless express permission be given him by the Court, any law, usage or custom to the contrary notwithstanding; and after the default shall have been so recorded, it shall be lawful for the said Courts, respectively, after due proof of the service

vice of the writ of summons, in a summary manner to receive evidence and hear the plaintiff in support of his *demande* in such suit or action, and thereupon to make and render such judgment as law and justice may require ; and if the said defendant should appear on the said day, either personally or by his Attorney, and the plaintiff should not appear personally or by his attorney, or appearing should not prosecute his suit or action, the same shall be dismissed, with costs to the defendant against the plaintiff ; and if the plaintiff in any such suit or action should establish his demand, he shall be entitled to recover the sum of money or thing by him demanded, and costs against the defendant.

Other cases.

XXXV. And be it enacted, that in any suit or action before any Court of Queen's Bench, in Inferior Term, or in any of the said Circuit Courts, it shall not be necessary to reduce to writing the depositions of the witnesses, but such witnesses shall be examined *vivâ voce*, in open Court, any law, custom or usage to the contrary notwithstanding: Provided always, that if any such suit or action be of the class of those suits or actions in which, by this Act, an appeal may lie to the Superior Term of the Court of Queen's Bench, it shall be the duty of the Justice or Circuit Judge hearing the cause, to take notes in writing of the material parts of the said depositions ; which notes, being signed by him, shall be filed, and remain of record in the cause, and shall have, to all intents and purposes, the same legal force and effect as the said depositions would have had if they had been reduced to writing, according to the law heretofore in force in that behalf.

Witnesses to be examined *vivâ voce*.

Proviso—
Notes of evidence to be taken by the Judge in certain cases.

XXXVI. And be it enacted, that the Justice or Circuit Judge, holding any Circuit Court, shall have power, when he shall deem it conducive to the ends of justice, to order that the record and proceedings in any suit or action before such Circuit Court be removed to the Inferior Term of the Court of Queen's Bench, in and for the District in which such Circuit Court shall sit, there to be heard and determined : of which order the Clerk or Prothonotary of such Circuit Court shall make an entry in the Register thereof : and thereupon it shall be his duty forthwith to certify, under his signature and the seal of the Court, and to cause to be transmitted to the office of the Clerk or Prothonotary of the said Court of Queen's Bench, the said record and proceedings, which shall then be filed by the last mentioned officer among the records of the Inferior Term of the said Court of Queen's Bench, and there shall continue to remain even after judgment, as if the said suit or action had been originally instituted in the said Inferior Term : Provided always, that the said Justice or Circuit Judge shall be bound to order such removal of any suit or action from the Circuit Court to the Inferior Term of the Court of Queen's Bench, in the manner aforesaid, whenever any of the parties shall require such removal, with the consent of the other parties.

Circuit Judge may order a cause to be removed to the Inferior Term.

And must do so if all the parties require it.

XXXVII.

What writs
may be issued
from Circuit
Courts.

Prothono-
taries or Clerks
may receive
the affidavit for
writs of *capias*,
&c.

Proviso.

Proviso :
Clerk of Cir-
cuit may issue
certain writs,
and make them
returnable in
Superior Term
of Q. B.

Such writs
to whom to be
addressed.

Proviso.

XXXVII. And be it enacted, that the said Courts of Queen's Bench in Inferior Term, and the said Circuit Courts, respectively, shall have power and authority, in causes and matters cognizable therein, to issue Writs of *Saisie Arrêt* before or after Judgment, *Saisie Gagerie*, *Saisie Revendication*, to be made returnable in the said Courts respectively, in the same and in like cases and circumstances in which such writs might immediately before the period hereinafter appointed for the commencement of this Act, lawfully be issued from and be made returnable in other Her Majesty's Courts of Civil Jurisdiction in Lower Canada, and under and subject to the rules of law in such cases provided ; and that in all cases where such Writs shall be issued from any Court of Queen's Bench, in Inferior Term, or from any of the said Circuit Courts, as well as in all cases where such Writs, and Writs of *Capias ad respondendum* and of Attachment before Judgment, against the body, or the estate, debts and effects of any debtor, shall be issued from any Court of Queen's Bench, in the Superior Term thereof, it shall and may be lawful for the Clerks or Prothonotaries of the said Courts, respectively, to take and receive the necessary oath, affidavit, or proof, in such cases by law required, and thereupon to issue, without the *fiat* of a Judge, any of the above mentioned Writs, in like manner as if the same had been granted or awarded by a Judge : Provided always, that nothing herein contained shall prevent any Justice of any Court of Queen's Bench, or Circuit Judge, from granting or awarding any such Writ aforesaid, in cases where he could otherwise do so according to law : And provided always, that in all cases in which a Writ of *Capias ad respondendum*, or a Writ of *Saisie Arrêt* before Judgment in an action cognizable by the said Court of Queen's Bench in Superior Term, may by law be issued, the Clerk or Prothonotary of any Circuit Court, shall have the same power and authority as are vested in the Clerks or Prothonotaries of the said Courts of Queen's Bench to receive the requisite affidavit, and to issue such last mentioned Writ of *Capias ad Respondendum*, or of *Saisie Arrêt* before Judgment, and to make the same returnable in the Superior Term of the said Court of Queen's Bench in and for the District in which the same shall have issued ; and the writs last mentioned shall, in any such case be addressed directly either to the Sheriff of the said District, or to any Bailiff of the Court of Queen's Bench in and for the same, and by them respectively executed and returned ; and when such writ shall be so addressed to any such Bailiff, such Bailiff shall without delay proceed to execute the same, without any previous warrant from the Sheriff, and shall deliver the writ, with a report of his proceedings thereon to the Sheriff, to whom he shall also deliver the body or the goods attached, (as the case may be,) to be dealt with according to law, and by whom the writ and the proceedings thereon shall then be returned to the Court of Queen's Bench, in Superior Term : Provided always, that in such case, the Sheriff shall not be responsible for any act done by the Bailiff, until the

the Officer last named shall have complied with the foregoing requirements ; and in every such case service of the declaration in the cause may be made in the same manner, and within the same delay as if the writ had been issued by the Prothonotary of the Court of Queen's Bench, and addressed to and executed by the Sheriff: Provided always, that in all cases where any such writ of attachment against the body or goods shall be issued by the Clerk or Prothonotary of any Circuit Court, and made returnable in the Superior Term of any Court of Queen's Bench, the defendant shall be entitled to the same relief on giving security or otherwise to the Sheriff, and in default shall be committed to the Common Gaol of the District, in like manner as if such writ had been issued by the Clerk or Prothonotary of such Court of Queen's Bench.

Proviso.

XXXVIII. And be it enacted, that all powers vested in any Court of Queen's Bench in Lower Canada, or in the Justices or Officers of such Court, respectively, in any suit or action pending in the Superior Term thereof, with regard to the summoning of Defendants *en garantie*,—the admission of parties to intervene,—the summoning of witnesses and the adduction of evidence,—the production of papers or other things in the possession of any witness or party,—the examination of any witness or party, and the oaths to be deferred, referred or required of them,—the issuing of any *Commission Rogatoire*, or Commission in the nature of a *Commission Rogatoire*, the examination of any witness sick or about to leave Lower Canada,—the enforcing of the attendance of witnesses duly summoned, and the punishment of such as shall disobey any writ of *Subpœna*,—the imprisonment (*contrainte par corps*,) of any Defendant or party resisting or fraudulently endeavouring to evade the execution of any writ against his goods or chattels, or with regard to other matters relative to or connected with the conduct of such suit or action and the proceedings therein, shall be and all such powers are hereby vested in the said Courts of Queen's Bench in Inferior Term, and in the said Circuit Courts and the Justices or Circuit Judges by whom the same are to be held, and in the Officers of the said Courts, respectively, and may be exercised by them (in so far as such powers and the provisions of law thereunto relating shall not be repugnant to or inconsistent with the provisions of this Act,) as fully and effectually, and under the same conditions and provisions of law as if the several Acts, Ordinances and Laws conferring the said powers were herein recited and re-enacted, and in such manner as shall be most conformable to and consistent with the other enactments of this Act.

Certain powers of Q. B. and of the Justices thereof, vested in Circuit Courts and Judges, in cases cognizable by them.

XXXIX. Provided always, and be it enacted, that no person shall be bound to attend any such Circuit Court as a witness in any Suit or Action pending therein, unless he be a resident within the Circuit, or within ten leagues of the place at which such Circuit Court is held: And provided also, that nothing herein

Distance from which witnesses may be summoned.

Proviso as to affidavits to be used in Circuit Courts.

in contained shall authorize any Circuit Court to appoint Commissioners for receiving affidavits to be used therein (save by *Commission Rogatoire* as aforesaid,) but all Commissioners appointed to receive affidavits to be used in any Court of Queen's Bench shall, by virtue of such appointment, become and be empowered to receive affidavits to be used in the Circuit Courts in the same District.

Q. B. in superior term to make rules of practice, &c. for inferior term and Circuit Courts.

XL. And be it enacted, that the said several Courts of Queen's Bench, shall and may at any Superior Term thereof, make such rules of practice and other regulations touching the forms of proceeding in Inferior Term, and in the Circuit Courts to be holden in the District, as they shall deem best adapted to ensure the due administration of Justice therein, and to give effect to the provisions of this Act according to the true intent or object thereof, and from time to time to alter and amend the same; and such rules of practice and regulations, not being contrary to any enactment of this Act, or to any other Act, Ordinance or Law, in force in Lower Canada, shall be obeyed accordingly.

Style of Writs, &c. issuing from inferior term of Circuit Courts.

XLI. And be it enacted, that all writs of process issued out of the Inferior Term of any Court of Queen's Bench, or out of any Circuit Court, shall run in the name of Her Majesty, Her Heirs or Successors, and shall be tested in the name of the Chief Justice, (or if that office be vacant, then in the name of the senior Puisné Justice,) entitled to sit in such Inferior Term or Circuit Court, and shall be sealed with the seal of the Court, and signed by the Clerk or Prothonotary, whose duty it shall be to prepare the same.

Case of the recusation, &c. of a Judge sitting in inferior term, or in a Circuit Court, provided for.

XLII. And be it enacted, that whenever any Justice or Circuit Judge, sitting in Inferior Term or in any Circuit Court, shall be lawfully recused in any suit or action, or shall be disqualified or rendered incompetent either by reason of interest, relationship or otherwise, from taking cognizance of the same, such Justice or Circuit Judge shall nevertheless receive the return of the writ of summons therein, but shall immediately cause an entry to be made on the record of such recusation, or of the reasons of such disqualification or incompetence, and shall thereupon order that the record and proceedings in such suit or action be removed to the Superior Term of the Court of Queen's Bench, in and for the District in which the said suit or action shall have been brought, there to be in a summary manner heard, tried and finally determined, in the case of such disqualification or incompetence as above mentioned; but, in the case of a recusation, the Court of Queen's Bench, so sitting in Superior Term, shall first proceed in a summary manner to determine whether such recusation be well founded, and if it should maintain the said recusation and adjudge the same to be well founded, proceedings shall thereupon be had in a summary manner to trial, judgment and execution; and if it should dismiss the said recusation, the said suit or action shall be remitted to the next

next Inferior Term of the said Court, if it shall have been brought originally in Inferior Term, or if not, either to the said next Inferior Term of the said Court, or to the next Term of the Circuit Court in which it shall have been so originally brought; and when, in any case of recusation, disqualification or incompetence, as aforesaid, an order shall have been made for the removal of the suit or action, as above required, the Clerk or Prothonotary of the Court shall make an entry of such order in the register thereof, and thereupon it shall be his duty forthwith to certify under his hand and the seal of the Court to the Justices of the Court of Queen's Bench sitting in Superior Term, and to cause to be transmitted to the said Justices the record and proceedings in the cause, which shall then be filed among the records of the Superior Term of the said Court of Queen's Bench, and there shall continue to remain, even after judgment, as if the suit or action had been originally instituted in the said Superior Term—except only in cases where a recusation shall have been made and dismissed as aforesaid, in which case the said record and proceedings shall be remitted as hereinbefore directed.

XLIII. And be it enacted, that from any judgment rendered by a Circuit Court, or by any Court of Queen's Bench sitting in Inferior Term, in any suit or action, in which the sum of money or the value of the thing demanded shall exceed ten pounds currency, or which shall relate to any titles to lands or tenements, or to any sum of money payable to Her Majesty, fee of office, duty or rent, revenue, annual rents, or such like matters or things, where the rights in future may be bound, an appeal shall lie to the Court of Queen's Bench, sitting in Superior Term in and for the District within which the suit or action shall have been originally instituted; which said Court so sitting in Superior Term, shall proceed to hear and adjudge on such appeal, as to law may appertain, and in the manner hereinafter provided.

Appeals from
C. Courts to
Q. B. in supe-
rior term allow-
ed in certain
cases.

XLIV. And be it enacted, that the party appealing from any judgment rendered as aforesaid by a Circuit Court, or by any Court of Queen's Bench in Inferior Term, shall, within fifteen days after the rendering of the judgment to be appealed from, (but without being bound to give previous notice thereof to the adverse party) give good and sufficient security, by sureties who shall justify their sufficiency to the satisfaction of the person before whom it shall be given as herein-after provided, that he will effectually prosecute the said appeal and answer the condemnation, and also pay such costs and damages as shall be awarded by the Court appealed to, if the judgment appealed from should be affirmed; which said security shall be given either before any of the Justices of the Court appealed to, or the Clerk or Prothonotary thereof, and the bond shall then be deposited and remain of record in the office of the latter; or it shall be given before any Justice or Circuit Judge, when holding the Circuit Court in which the said judgment

Mode of bring-
ing such ap-
peal.

Security.

appealed

Who shall
be a sufficient
surety.

Proviso, as
to party agree-
ing that the
judgment be
executed.

Proviso in
such case, as to
what shall be
returned by re-
spondent, if the
judgment be
reversed.

Such appeals
to be heard and
determined in
a summary
manner ;—
mode of pro-
ceeding.

appealed from shall have been rendered, or before the Clerk or Prothonotary of such Circuit Court, and the bond shall then be deposited and remain of record in the office of the latter; and any one surety, being a proprietor of landed property of the value of fifty pounds, currency, over and above all incumbrances payable out of or affecting the same, shall suffice to render such security valid; and the said Justices, and Clerks or Prothonotaries, are hereby respectively authorized to administer all oaths required by law in such cases from the persons so becoming sureties: Provided always, that if the party appealing shall, within the same delay of fifteen days after the rendering of the judgment, agree and declare in writing at the office of the Clerk or Prothonotary of the Court appealed to, or at the office of the Clerk or Prothonotary of the said Court appealed from, that he does not object to the judgment being carried into effect according to law, or shall pay into the hands of either of the said Clerks or Prothonotaries, the amount, in capital, interest and costs, of the said judgment, and shall at the same time declare in writing his intention to appeal, (which amount, when so paid, the respondent shall be entitled to have and receive from the said Clerk or Prothonotary,) then and in that case, the party so appealing, in lieu of the security above required, shall give security only for such costs and damages as shall be awarded by the Court appealed to, in case the appeal be dismissed: And provided also, that when only such last mentioned security shall have been given, the respondent, if the judgment appealed from be reversed, shall not be bound to return to the appellant more than the amount of money so paid by the latter into the hands of the said Clerk or Prothonotary, with the legal interest thereon from the day of the payment of the same to the said Clerk or Prothonotary, or more than the sum levied under the execution sued out upon such judgment, with the legal interest upon such sum from the day of its being so levied, or more than the restitution of the real property whereof the respondent shall have been put in possession by virtue of the said judgment, and the net value of the produce and revenues thereof, to be computed from the day the respondent shall have been put in possession of such real property, until perfect restitution is made with the costs of such appellant as well in the Court appealed to, as in the Court below, but without any damages, in any of the said cases, against the respondent by reason of the said judgment or of the said execution; any law, custom or usage to the contrary notwithstanding.

XLV. And for the purpose of obviating delay and expense in the prosecution of appeals from judgments rendered by the Circuit Courts, or by the Courts of Queen's Bench in Inferior Term, be it enacted, that such appeals shall be prosecuted and proceedings thereon had in a summary manner, by petition of the appellant to the Court to which such appeal shall be as aforesaid, setting forth succinctly the grounds of appeal, and praying for the reversal of the judgment appealed from, and the rendering of such judgment as by the Court below ought to

to have been rendered ; a copy of which petition, with a notice of the time at which it is to be presented to the Court of Queen's Bench sitting in Superior Term, shall be served on the adverse party personally or at domicile, or on his Attorney, *ad litem*, within twenty days from the rendering of the judgment appealed from ; and such petition shall be so presented on any of the first ten days of the Superior Term of the Court appealed to, next succeeding the rendering of the judgment, if there shall be an interval of twenty-five days between the rendering of such judgment and the last of the said ten first days of the said Term, and if there shall not be such an interval, then on the first juridical day of the second Superior Term of the Court appealed to, next succeeding the rendering of such judgment : Provided always, that neither the day of the rendering of the judgment appealed from, nor the day of the presenting of the said petition to the Court appealed to, shall be considered as forming part of the said interval of twenty-five days ; And provided also, that a true copy of the appeal bond given by the party appealing, certified as such by the Clerk or Prothonotary in whose office it shall have been deposited, shall be annexed to the original of the petition presented to the Court appealed to, and that a copy or copies of the same, certified as such by the party appealing, or his Attorney, shall be served, with the petition and notice hereinbefore mentioned, upon the party respondent.

Proviso.

Proviso.

XLVI. And be it enacted, that within the same delay of twenty days after the rendering of the judgment appealed from as aforesaid, the party appealing shall also cause a copy of the said petition and notice only, to be served upon the Clerk or Prothonotary in the office and custody of whom the record of the suit or action appealed from shall be, with a certificate from the Clerk or Prothonotary of the Court appealed to, that security in appeal has been given, if the appeal bond shall not be deposited in the office of the Court appealed from ; and thereupon it shall be the duty of the said Clerk or Prothonotary, of the last mentioned Court without waiting for the presenting of the said petition to the Court appealed to, forthwith to certify under his hand and the seal of the Court, to the Court to which such appeal may lie, and to cause to be transmitted to the Justices of the said Court, (to be filed among the records of the Superior Term thereof,) the judgment, record, notes of evidence, and proceedings to which such appeal shall relate ; and after the transmission of the said judgment, record, notes of evidence, and proceedings, and the filing of the said petition of appeal by and on the part of the appellant as aforesaid, the appeal shall, without any further formality, be summarily heard, and judgment thereon rendered by the said Court of Queen's Bench, sitting in Superior Term, as to law and justice may appertain : Provided always, that the Justice by whom the judgment appealed from may have been rendered, shall not sit on the hearing and judgment of the cause upon such appeal ; and if the Court be equally divided on the question whether the judgment

Other proceedings on such appeals.

Hearing on the appeal.

Proviso—what Judges may sit on the appeal ; case of equal division of the Court provided for.

appealed

Proviso, as to
appeals not du-
ly prosecuted.

appealed ought or ought not to be affirmed, it shall stand and be affirmed: And provided also, that any appellant who shall neglect to cause a copy of such petition and notice of appeal to be served as aforesaid, or who, after having caused the same to be served, shall neglect to prosecute effectually the said appeal in the manner hereinbefore prescribed, shall be considered to have abandoned the said appeal, and upon the application of the respondent the Court appealed to shall declare all right and claim founded on such appeal to be forfeited, and shall grant costs to the respondent, and order the record (if transmitted) to be remitted to the Court below.

Execution of
judgments of
Circuit Courts.

Writ of Fieri
Facias against
goods,

By whom exe-
cuted,

Bailiff not to
have a percent-
age.

Return.

Proviso—in
what cases Fie-
ri Facias may
issue against
lands,

Hypothecary
actions.

XLVII. And be it enacted, that in every case where judgment shall be rendered in any Court of Queen's Bench in Inferior Term, or in any Circuit Court, awarding or adjudging the payment of any sum of money, it shall and may be lawful for the Clerk or Prothonotary of the Court, at the expiration of fifteen days after the rendering of the judgment, to issue under the seal of the Court, a writ of *fieri facias* against goods and chattels; which writ shall be signed by him, and made returnable to the Court, and shall be directed to any of the Bailiffs of the Court of Queen's Bench in and for the District in which the judgment shall have been rendered, who is hereby authorized to levy the sum of money mentioned in such writ, and the costs of execution, upon and from the goods and chattels of the party against whom such judgment shall have been rendered which shall be found within the District, in the same manner, and according to the same rules and regulations of law, by and under which any Sheriff may levy money by virtue of a writ of *fieri facias* issuing out of any of Her Majesty's Courts of civil jurisdiction in Lower Canada; but the said Bailiff shall not be entitled, out of the monies so levied by him, to the commission of two and a half per cent. in such case allowed by law to Sheriffs, or to any commission whatever; and the said writ, on or before the day fixed for the return thereof, shall be by the said Bailiff returned into the Court from which it shall have issued, with his proceedings thereon: Provided always, that for the satisfaction of any such judgment, execution shall (except in hypothecary actions) go only against the moveable property of the party condemned, in cases where the sum of money awarded by the judgment shall not exceed ten pounds, currency; and that in cases where the said sum of money so awarded shall exceed ten pounds currency, execution shall go not only against the moveable but also against the immoveable property of the party condemned; as it shall also in all hypothecary actions against the immoveable property declared by the judgment to be hypothecated for the payment of the sum for which such judgment shall have been rendered, whatever be the amount demanded or recovered in the suit: and when execution upon any such judgment shall be sued out against the immoveable property, a writ of *fieri facias de terris* shall be issued from the Court in which the judgment shall have been rendered, under

under the seal of the said Court, and signed by the Clerk or Prothonotary thereof, and such writ shall be made returnable to the Court of Queen's Bench in and for the District in which the judgment shall have been rendered, at a Superior Term thereof, and shall be directed to the Sheriff of the said District who is hereby authorized to levy the sum of money mentioned in such writ, and the costs of execution, upon and from the immoveable property of the party against whom such judgment shall have been rendered, or upon and from the immoveable property declared by the judgment to be so hypothecated as aforesaid, (as the case may be,) in the manner and according to the rules and regulations of law, by and under which any Sheriff may levy money by virtue of a writ of *fieri facias de terris* issuing out of any of Her Majesty's Courts of civil jurisdiction in Lower Canada; and the said writ, on or before the day fixed for the return thereof, shall be by the said Sheriff returned into the Court of Queen's Bench in Superior Term, with his proceedings thereupon, in the same manner as if such writ had issued from such Superior Term of the said Court; and all ulterior proceedings of what kind soever, consequent upon the issuing of such writ, or necessary for the execution thereof, as well with regard to the plaintiff and defendant, as with regard to other parties, who, according to law, may have intervened in the cause by opposition or otherwise, shall be had in said Court of Queen's Bench in Superior Term, as effectually and in the same manner as if the cause in which such writ shall have issued had been originally brought and determined in the said Court in Superior Term.

Writs to whom directed, and how executed and returned.

Ultrior proceedings consequent on such writ.

XLVIII. And be it enacted, that when the party against whom judgment shall have been rendered, either in any Circuit Court, or in the Inferior Term of any Court of Queen's Bench, shall not have, within the District in which such judgment shall have been rendered, sufficient goods, chattels, lands or tenements, to satisfy the said judgment in capital, interest and costs, but shall have goods, chattels, lands or tenements within any other District in Lower Canada, an *alias* writ *de bonis* or *de terris*, as the case may be, shall issue from the Court in which the judgment shall have been rendered, under the seal of the said Court, and signed by the Clerk or Prothonotary thereof; which *alias* writ shall be made returnable to the Court out of which it shall issue, if it be a writ *de bonis*, and to the Court of Queen's Bench, in and for the District in which the judgment shall have been rendered, at a Superior Term thereof, if it be a writ *de terris*, and shall be directed to the Sheriff of such other District; which said *alias* writ, after having been endorsed by one of the Justices of the Court of Queen's Bench in and for such other District, shall be executed in the latter District by the Sheriff thereof, as if it were a writ of execution issued from the Superior Term of the said Court of Queen's Bench in and for his own District, and in the same manner and according to the same rules and regulations of law; and the said writ shall be, by the said last

Alias Writs in certain cases against goods, &c. or lands in other Districts.

How to be executed in such other District.

And returned.

Ulterior pro-
ceedings.

Proviso as to
Hypothecary
actions.

last mentioned Sheriff, with his proceedings thereon, duly returned into the Court from which it shall have been issued, if it be a writ *de bonis*, or into the Superior Term of the said Court of Queen's Bench in and for the District in which the said judgment shall have been rendered, if it be a writ *de terris*; and in the latter case, all ulterior proceedings of what kind soever, consequent upon the issuing of such writ *de terris*, or necessary for the execution thereof, as well with regard to the plaintiff and defendant, as with regard to other parties who, in due course of law, may have intervened in the cause by opposition or otherwise, shall be had in the Court last above mentioned, in Superior Term, as effectually and in the same manner as if the cause in which such writ shall have issued had been originally brought and determined in such last mentioned Court, in Superior Term: Provided always, that in all cases where execution may issue in any hypothecary action against any immoveable property declared by the judgment to be hypothecated for the payment of the money to be levied under such execution and *délaissé* under such judgment, and situate in a District other than that in which the writ shall issue, such writ shall be issued, executed and returned, and the subsequent proceedings relative to the same shall be had as herein provided with regard to *alias* writs *de terris*, without its being necessary that any other writ should previously issue.

Where Writs
de terris issue,
the Court into
which they are
returned may
order the Re-
cord to be re-
moved to it.

XLIX. And be it enacted, that when any such writ *de terris*, issuing from any Circuit Court, or from the Inferior Term of any Court of Queen's Bench, shall have been, in the manner hereinbefore provided, returned into the said last named Court in Superior Term, it shall be lawful for the said last named Court, in its discretion, to direct the record of the cause in which such writ of execution shall have issued, to be removed into the said Superior Term, and such removal shall be made (on an order made by the said Court, and addressed to the Clerk or Prothonotary of the Court from which the record is to be removed,) in the same manner and according to the same regulations as are hereinbefore provided for the removal, on the order of a Justice or Circuit Judge, of suits or actions instituted before any Circuit Court, or Court of Queen's Bench in Inferior Term, into the said Court in Superior Term.

Q. B. in infe-
rior term and
Circuit Courts
may order the
debt to be le-
vied by instal-
ments.

L. And be it enacted, that the Courts of Queen's Bench in Inferior Term, and the said Circuit Courts, may respectively, if they think proper, order the debt to be levied by instalments: Provided the delay allowed for the payment of the last instalment shall not exceed the space of three months from the day of the Judgment: And provided also, that in default of payment of any one such instalment, at the time it shall become due, execution may issue in satisfaction of the Judgment, as if such delay had not been granted.

LJ.

LI. And be it enacted, that the certificate of the Clerk or Prothonotary of any Court of Queen's Bench or Circuit Court, that the costs in any suit or action or proceeding in the Inferior Term of such Court of Queen's Bench, or in such Circuit Court, amount to a sum named in such certificate (the sums allowed to witnesses having been previously approved by a Justice or Circuit Judge, as the case may be,) shall be sufficient proof of the amount of such costs, provided, a detailed bill or account of the same, signed by the said Clerk or Prothonotary, be annexed to such certificate, and execution may issue accordingly for such costs, without any other or further taxation thereof, nor shall it be necessary that any writ of execution issuing out of any such Inferior Term or Circuit Court be signed or indorsed by any Justice or Circuit Judge; any law, usage or custom to the contrary notwithstanding.

Prothonotary's
taxation of
costs in supe-
rior term of
C. Courts to
be sufficient.

LII. And be it enacted, that if any opposition be made to the execution of any writ *de bonis* issued from any Circuit Court, such opposition shall be made returnable either to the same Circuit Court at the then next term thereof, or to the Court of Queen's Bench for the District at the Inferior Term thereof, next after the day on which the opposition shall have been allowed, if such Inferior Term be nearer to the said day, there to be heard and determined; and when such opposition shall have been made returnable into the said Court of Queen's Bench in Inferior Term, the said Court shall have power, if it deem it necessary, to order the removal of the record in the original suit or action from the Circuit Court, into the Court of Queen's Bench, and such removal shall be made in the manner hereinbefore provided for the removal of records in similar cases; and the Bailiff charged with the execution of the writ shall, immediately after he shall have been served with a true copy of the said opposition, return the same and the writ with his proceedings thereon, to the Court to which the opposition shall have been so made returnable; and when final Judgment shall have been given on any such opposition in the Inferior Term of the Court of Queen's Bench, the writ of execution and all proceedings thereon, with a true copy of the said Judgment, (and the record in the original suit or action, if it shall have been removed) shall be remitted to the Circuit Court, in which further proceedings shall thereupon be had, as to law may appertain: Provided always, that the *fiat* or order to stay proceedings upon such writ *de bonis* in consequence of any such opposition, and to make such opposition returnable as aforesaid, may be made by any Justice of the Court of Queen's Bench, or Circuit Judge in and for the District, although he be not then within the limits of the Circuit, or by the Clerk or Prothonotary of the Circuit Court, and to that effect, such Justice, Circuit Judge, Clerk or Prothonotary, is hereby authorized to administer all oaths in such cases required by law.

Opposition on
Writs *de bonis*
how to be dealt
with.

Bailiff's duty
on receiving
such opposi-
tion.

Proviso—by
whom the *fiat*
to stay pro-
ceedings on the
opposition may
be granted.

LIII. And be it enacted, that the said Circuit Courts, respectively, and the Chief Justice, Justice or Circuit Judge holding the same, as well in Court as out of

Circuit Courts
and Judges
holding them

to have certain powers in matters requiring despatch.

Circuit Judges to have concurrent powers with the Justices of Q. B. in such matters, in Quebec and Montreal.

Proviso.

Proceedings in certain suits where the defendant cannot be found in the District or Circuit.

of Court, in Term or out of Term, or in Vacation, shall have and may exercise within the said Circuits, respectively, the same powers and authority as are vested in any Court of Queen's Bench, and the Justices thereof, in what respects the election and appointment of Tutors and Curators, and the taking of the counsel and opinion of relations and friends in cases where the same are by law required to be taken, the closing of inventories, attestation of accounts, *insinuations*, affixing and taking off seals of safe custody, and other acts of the same nature requiring despatch; and the proceedings in all such cases shall form part of the records of the Circuit Court for the Circuit in which they shall be had; and the Circuit Judges in and for the Districts of Quebec and Montreal, shall have and may exercise in and for the said Districts, respectively, the same powers and authority with regard to the said matters as are vested in the Justices of the Court of Queen's Bench for the same District, and may exercise the same concurrently with such Justices, at the places where the said last named Courts are respectively held, but the proceedings shall then form part of the Records of the Court of Queen's Bench for the District in which they shall be had: Provided always, that the appointments and orders made by any such Chief Justice, Justice, or Circuit Judge, under the authority of this section, shall be liable to be set aside by the Court of Queen's Bench for the District, in the manner and under the provisions of law, in and under which appointments and orders of like nature made by a single Judge might be set aside, immediately before the time when this Act shall come into force.

LIV. And be it enacted, that in any suit or action to be brought against any person who shall have left his domicile in Lower Canada, or against any person who shall have had no domicile in Lower Canada, but shall have personal or real estate in the same, it shall be lawful for the plaintiff, if no curator be appointed in the ordinary course of law to represent such person, to summon and implead such person, by a writ issued, in the usual way, out of the Court of Queen's Bench, or out of any of the Circuit Courts in and for the District or Circuit wherein such person may have had his domicile, or where such property may be situate; and that upon the return of the Sheriff or of the Bailiff to the writ, that the defendant cannot be found in the said District or Circuit, it shall be lawful for the Court to order that the defendant shall, by an advertisement, to be twice inserted in the English language in any Newspaper published in that language, and twice in the French language in any Newspaper published in that language, in Lower Canada, be notified to appear and answer such suit or action, within two months after the last insertion of such advertisement; and that upon the neglect of the defendant, to appear and answer to such suit or action within the period aforesaid, it shall be lawful for the plaintiff to proceed to trial and judgment as in a case by default.

Lv.

LV. And be it enacted, that in all cases of the taking of goods and chattels in execution, by virtue of a writ issuing out of any Court of Queen's Bench or Circuit Court, wherein a Lessor may claim a privilege or lien for rent, it shall not be lawful for such Lessor to prevent the sale of such goods and chattels by opposition, but it shall be lawful for him to deliver to or lodge with the Sheriff or the Bailiff who shall have seized such goods and chattels, his opposition *afin de conserver*, either before or after the sale, and if the same be so delivered or lodged before the sale, the Sheriff or Bailiff shall nevertheless proceed to the sale of the goods and chattels by him seized, and make his return thereof; and upon such return, the Lessor shall have his privilege or lien upon the proceeds of the sale of such goods and chattels and be collocated accordingly; any law, usage or custom to the contrary notwithstanding: Provided always, that when any such opposition, or any other opposition *afin de conserver* upon monies levied by virtue of a writ *de bonis*, issued from the Inferior Term of any Court of Queen's Bench, or from any Circuit Court, shall be delivered to and lodged with the Bailiff, before he shall have paid the proceeds of the sale to the party suing out such writ, it shall be the duty of the Bailiff forthwith to make his return of the said writ according to law, and to pay over into the hands of the Clerk or Prothonotary of the Court from which the writ shall have issued the proceeds of the sale, to abide the judgment of the Court.

Manner in which a Lessor's privilege is to be exercised on property seized in execution.

Proviso.

LVI. And be it enacted, that it shall be lawful for any Chief Justice or Justice of any Court of Queen's Bench, holding any Circuit Court, when and so soon as lists of Jurors shall have been legally made out for that purpose, and the requisite provisions of law in that behalf enacted, to preside during the holding of any such Circuit Court, at the trial of the issue in any suit or action brought before such Court of Queen's Bench, in Superior Term, and by the same ordered, according to law, to be tried before a Jury, and to receive the verdict of such Jury, and to return the same into such Court of Queen's Bench, to be by the said Court proceeded upon according to law.

Trials by Jury in cases before Q. B. in superior term may hereafter in certain cases be ordered by Courts of Q. B. to be taken before Circuit Courts.

LVII. And be it enacted, that in all actions and proceedings in the said Circuit Courts, and in the Courts of Queen's Bench, in Inferior Term, respectively, the fees specified in the Schedule (B) to this Act subjoined, shall be deemed and taken to be the lawful fees for the discharge of the several duties therein mentioned; and no other fees or emoluments shall be received or taken upon any pretence whatever, for any act done or service performed under the authority of this Act; and if any officer or person shall receive any other or greater fee, or emolument than is specified in the said Schedule for any of the duties aforesaid, or for any act done or service performed as aforesaid, he shall forfeit the sum of twenty pounds Currency, for each such offence, which penalty shall and may be recovered

Fees in Inferior term and in Circuit Courts to be as per Schedule.

Penalty for taking higher fees.

recovered by civil action, in any Circuit Court, or in any Court of Queen's Bench in Inferior Term; and one half of such penalty shall belong to Her Majesty, Her Heirs and Successors, and the other half thereof to the person who shall sue for the same.

A copy of the
Schedule to be
posted where
the Court is
held, &c.

LVIII. And be it enacted, that the Clerk or Prothonotary of any Court of Queen's Bench, or of any Circuit Court, shall cause to be continually and openly posted as well in his office, as in some conspicuous place in the hall or apartment in which such Circuit Court, or the Inferior Term of such Court of Queen's Bench shall be held, a fair and legible copy of the Schedule of fees herein-before mentioned, and a notice of the penalty to which any person will become liable for receiving any other or greater fee than is set forth in the said Schedule; and in default of so doing, shall be deemed and held to be guilty of a misdemeanor, and be liable to be punished accordingly.

Governor to
appoint Clerks
of Circuit
Courts.

Deputy.

LIX. And be it enacted, that it shall be lawful for the Governor of this Province, to appoint from time to time, a Clerk or Prothonotary for each of the said Circuit Courts; and every such Clerk or Prothonotary as well as the Clerk or Prothonotary of any Court of Queen's Bench, appointed or to be hereafter appointed, shall have power, by an instrument under his hand and seal, to appoint a Deputy who shall act as such only in case of the absence or sickness of such Clerk or Prothonotary; and such instrument shall be entered at full length in the Register of the Court; Provided always, that it shall be lawful for the Clerk or Prothonotary, at all times, to remove such Deputy, and to appoint another in his place.

Clerk or his
Deputy not to
practice as At-
torney, &c.

LX. And be it enacted, that no Clerk or Prothonotary of any Court, shall during his continuance in office, nor his Deputy while performing the duties of the office, practice as an Advocate, Proctor, Solicitor or Attorney, or as Counsel in any Court of Law in Lower Canada.

Prothonota-
ries of Q. B.
and Clerks of
Circuit Courts
to give securi-
ty.

LXI. And be it enacted, that each Clerk or Prothonotary of any Court of Queen's Bench or Circuit Court shall, within three months after his appointment, if he be appointed after this Act shall be in force, and within three months after this Act shall come into force, if he shall have been appointed before it shall be in force, give security for the due performance of the duties of his office, and for duly accounting for and paying all monies which shall come into his hands by virtue of his office, by a bond to be given by him jointly and severally with good and sufficient sureties, which bond shall stand and be as and for a security to the amount thereof, for the damages which may be sustained by any party by reason of the negligence or misconduct of such Clerk or Prothonotary, and the amount for which such bond shall be given, shall be as follows, that is to say:—by the Prothonotary

Amounts.

or

or Clerk of the Court of Queen's Bench for the District of Quebec or of Montreal, and his sureties, for the sum of two thousand pounds currency: by the Clerk or Prothonotary of the Court of Queen's Bench for the District of Three Rivers or of St. Francis, and his sureties, for the sum of one thousand pounds currency: and by the Clerk or Prothonotary of any Circuit Court, and his sureties for the sum of two hundred and fifty pounds currency.

LXII. And be it enacted, that Bailiffs appointed or to be appointed by the Court of Queen's Bench for any of the Districts before mentioned in Superior Term, shall have power to act as such within the limits of such District, for the service and execution of all writs, orders and process issuing as well from the said Court of Queen's Bench and the said Circuit Courts, as from all other Courts of Law in Lower Canada, which may be lawfully directed to a Bailiff; and such Bailiffs shall be removable by the Justices of the said Courts of Queen's Bench, either in Superior or Inferior Term, or by any Chief Justice, Justice or Circuit Judge when holding any Circuit Court: Provided always, that no Bailiff appointed before the time when this Act shall come into force, shall continue to act as such after the expiration of six months from the said time, unless re-appointed by the Court of Queen's Bench in Superior Term, after this Act shall be in force: And provided also, that any Bailiff who shall have made the service of the writ of summons in any Suit or Action shall not be competent to be examined as a witness in support of the plaintiff's *demande* in such Suit or Action, save and except as to what may relate to the service of the said writ of summons.

Bailiffs appointed by Q. B. in superior term—their powers.

Proviso—not to act after six months, unless re-appointed.

Proviso.

LXIII. And be it enacted, that every person who shall be appointed a Bailiff as aforesaid, shall, before acting as such, enter into a Bond with two good and sufficient sureties, who shall justify their sufficiency to the satisfaction of the person before whom the Bond shall be given, unto Her Majesty, Her Heirs and Successors, in the penalty of one hundred pounds currency, conditional for the due performance of the duties of the said Office, and such Bond shall be taken before the Clerk or Prothonotary of the Court of Queen's Bench, in and for the District in which the Bailiff shall have been so appointed, and shall remain of record in the Office of the said Clerk or Prothonotary; and every copy of such Bond, delivered by the Officer last named under his hand and the seal of the Court, shall be deemed and considered an authentic copy to all intents and purposes; and it shall be incumbent on the said Clerk or Prothonotary to inquire and ascertain when such sureties may die, or become insolvent, or resident out of Lower Canada, (in any of which cases it shall also be the express duty of the Bailiff to give notice of the fact to the Clerk or Prothonotary) and in such case or cases to require the Bailiff to give other and further security as aforesaid; and the Bond so given shall stand and be as and for a security to the amount thereof, for the damages which may

Bailiffs to give security—amount.

Duty of Prothonotary as to such security.

may be sustained by any person or persons by reason of the culpable negligence or misconduct of the Bailiff.

Punishment
of Bailiff guilty
of misconduct.

LXIV. And be it enacted, that if any Bailiff or any officer of any Circuit Court, acting under colour or pretence of the process of such Court, shall be guilty of extortion or misconduct, or shall not duly pay or account for any money levied or received by him, under the authority of this Act, it shall be lawful for any Chief Justice, Justice, or Circuit Judge, holding the said Circuit Court, if the party aggrieved shall think fit to complain to him, to inquire into such matter in a summary way, and for that purpose to summon and enforce the attendance of all necessary parties, and to make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied or received as aforesaid, and for the payment of such costs to the party aggrieved, as such Chief Justice, Justice or Circuit Judge, shall think just; and in default of the immediate payment of any sum of money so ordered to be paid by such Bailiff or such Officer, to commit the offender to the common gaol of the District, there to be detained until such payment be made in full.

Transmission
of Records,
&c. of District
and Division
Courts.

LXV. And be it enacted, that the Records, Registers, Documents and proceedings, of and in the several District Courts and Division Courts hereby abolished, shall forthwith, after the period hereinafter appointed for the commencement of this Act, be transmitted into and make part of the Records, Registers, Documents and proceedings of and in the Inferior Term of the several Courts of Queen's Bench, for the District in which such District and Division Courts shall have been respectively held.

Continuance
of suits brought
in such Courts,
in those to
which they are
to be transmitted.

LXVI. And be it enacted, that no judgment, order, rule, or act, of the said District Courts and Division Courts, respectively, legally pronounced, had or done, before the commencement of this Act, shall be hereby avoided, but shall remain in full force as if this Act had not been passed; nor shall any action, suit, cause or proceeding, depending in the said District Courts and Division Courts, respectively, be abated, discontinued or annulled, but the same shall (although the sum or value of the thing demanded should be above twenty pounds currency,) be transferred in their then present condition respectively to, and shall subsist and depend in the Inferior Term of the Courts of Queen's Bench, into which the Records, Registers, Documents and proceedings of the said District Courts and Division Courts, respectively, are to be transmitted as aforesaid; and other and further proceedings shall be thereon had in the said Courts of Queen's Bench, respectively, in Inferior Term, to judgment and execution, and as to all matters and proceedings consequent upon such judgment and execution, as might be had

in

in the said Courts of Queen's Bench in Inferior Term, in causes and proceedings therein commenced and depending.

LXVII. And be it enacted, that every writ or process which shall have been made returnable into any of the said District Courts or Division Courts hereby abolished, on any day subsequent to the commencement of this Act, shall be returned into the Inferior Term of the Court of Queen's Bench in and for the District in which the same shall have been issued, and shall be held and considered to be returnable on the first juridical day of the Inferior Term of such Court of Queen's Bench, commencing next after the day on which such writ or process shall have been made returnable.

Process issued out of such Courts, when to be returnable after this Act is in force.

LXVIII. And be it enacted, that if any person, having been the Clerk or Prothonotary of any District or Division Court hereby abolished, shall refuse or neglect to transmit to the proper Court, and at the time and in manner hereby required, any Record, Register, or Document in his possession, as such Clerk or Prothonotary, at the time this Act shall come into force, the Court to which the same ought to be transmitted, may upon the application of the Clerk or Prothonotary of such last mentioned Court, address such order as it may deem expedient in the matter, either to the Clerk or Prothonotary in default, or to any other person having any such Record, Register, or Document in his possession, for the purpose of enforcing the transmission thereof, or of authorizing the seizure thereof by such person as the Court shall appoint; and any wilful disobedience to such order, or any resistance to the execution thereof, shall be a contempt, punishable by fine and imprisonment, in the discretion of the Court.

Punishment of Courts abolished refusing to transmit the records thereof.

LXIX. And be it enacted, that the Ordinance of the Governor and Special Council for the affairs of Lower Canada, made and passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance to authorize the Governor or person administering the Government of this Province, to appoint one or more Assistant Judges for the Court of King's Bench for the Districts of Quebec and Montreal, in this Province, and an Assistant Judge for the District of Three Rivers, in the case of sickness, necessary absence, or suspension from office of any of the Justices of the said several Courts of King's Bench, or the Resident Judge for the District of Three Rivers, in the said Province,*—and the Ordinance of the said Governor and Special Council, made and passed in the Session held in the third and fourth years of Her Majesty's Reign, and intituled, *An Ordinance to amend an Ordinance made and passed in the second year of Her Majesty's Reign, and intituled, An Ordinance to authorize the Governor or person administering the Government of this Province, to appoint one or more Assistant Judges for the Courts of King's Bench for the Districts of Quebec and Montreal, in this Province, and an Assistant Judge*

Certain laws repealed.

2 Vict. (2) c. 13.

3 & 4 Vic. c. 21.

4 Vic. c. 1.

4 Vic. c. 2.

2 Vic. (3) c.
49.

1 Wm. 4. c. 2.

3 & 4 Vic. c.
9.Other laws in-
consistent with
this Act.Interpretation
clause.

Judge for the District of Three Rivers, in the case of sickness, necessary absence, or suspension from office, of any of the Justices of the said several Courts of King's Bench, or the Resident Judge for the District of Three Rivers, in the said Province,—and the Ordinance of the said Governor and Special Council, made and passed in the fourth year of Her Majesty's Reign, and intituled, An Ordinance to amend a certain Ordinance of the Legislature of this Province, made and passed in the fourth year of Her Majesty's Reign, and intituled, An Ordinance to establish new Territorial Divisions of Lower Canada, and to alter and amend the Judicature, and to provide for the better and more efficient administration of Justice throughout this Province,—and also a certain other Ordinance of the same Legislature, made and passed in the same year, intituled, An Ordinance to provide for the more easy and expeditious administration of Justice in civil causes, and matters involving small pecuniary value and interest, throughout this Province,—and the Ordinance of the said Governor and Special Council, made and passed in the fourth year of Her Majesty's Reign, and intituled, An Ordinance to amend a certain Ordinance therein mentioned,—and the Ordinance of the said Governor and Special Council, made and passed in the second year of Her Majesty's Reign, intituled, An Ordinance to regulate the practice of the Courts of Judicature in this Province, respecting certain proceedings,—and the Act of the Legislature of Lower Canada, passed in the first year of the Reign of His late Majesty, King William the Fourth, and intituled, An Act to facilitate the administration of Justice respecting Enquêtes in civil matters, before the Court of King's Bench for the Districts of Quebec, Montreal, Three Rivers, and the Inferior District of St. Francis,—and the Ordinance of the said Governor and Special Council, made and passed in the Session held in the third and fourth years of Her Majesty's Reign, and intituled, An Ordinance to amend and render permanent the Act therein mentioned, passed to facilitate the administration of Justice in civil matters, in the Districts of Quebec, Montreal, Three Rivers and St. Francis,—and so much of any other Act, Ordinance or Law, as may be repugnant to or inconsistent with the provisions of this Act, shall be and are hereby repealed.

LXX. And be it enacted, that the words "Governor of this Province," wherever they occur in the foregoing enactments, are to be understood as meaning and comprehending the Governor, or the person authorized to execute the commission of Governor within this Province, for the time being; and that the words "Lower Canada," wherever they occur in the said enactments, are to be understood as meaning and comprehending that part of this Province of Canada which formerly constituted the Province of Lower Canada; and any word or words importing the singular number, or the masculine gender only, shall be understood to include several matters of the same kind as well as one matter, and several persons as well as one person, and bodies corporate as well as individuals, unless

it

it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

LXXI. And be it enacted, that this Act shall commence and have force and effect upon, from and after, the twenty-first day of April, in the year of our Lord one thousand eight hundred and forty-four, and not before.

After what
time this Act
shall be in
force.

SCHEDULE A.

Province of Canada, }
District (or Circuit) of }

In the Court of Queen's Bench, Inferior Term.
(or

In the Circuit Court.)
day of

18

A. B. of, &c., Plaintiff.

and

C. D. of, &c., Defendant.

The plaintiff demands of the defendant the sum of currency,
due by him to the plaintiff for (state sufficiently the cause of action) which said
sum the defendant refuses to pay. (If the action be to recover a thing wrong-
fully detained, &c. vary the statement of the cause of action accordingly.) There-
fore the plaintiff prays judgment.

{ L. S. }

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and
Ireland, Queen, Defender of the Faith, to C. D. the defendant in the fore-
going (or annexed) declaration mentioned.

You are hereby required to satisfy the demand of A. B. the plaintiff, in his
declaration set forth, with costs, or to appear in person, or by your Attorney, before
our said Court of Queen's Bench, sitting in Inferior Term, (or before our said
Circuit Court) at the Court House, at in the said District (or Circuit)
at o'clock in the forenoon, on the day of instant,
(or

(*or next*) to answer to the said *demande*; otherwise judgment may be given against you by default.

Witness the Honorable J. S. our Chief Justice of Lower Canada, (or as the case may be) this day of in the year of our Lord one thousand eight hundred and and in the year of our reign.

P. B. Prothonotary (*or Clerk*) of the said Court.

SCHEDULE.

SCHEDULE B.

TABLE OF FEES in the Inferior Terms of the Courts of Queen's Bench, and in the Circuit Courts.

	First Class Actions, £20 or under, but above £10.		Second Class Actions, £10 or under, but above £5. 5.		Third Class Actions, £6. 5. or under.		In every case.
	£	s. d.	£	s. d.	£	s. d.	£ s. d.
TO THE ATTORNEY.							
On all proceedings in Actions settled before return, (except those on which additional fees are hereinafter allowed)—to the Plaintiff's Attorney.	1	0 0	0	5 0	0	3 4	
On all proceedings (except as aforesaid) in Actions settled after return, and before contestation, or in which judgment shall be given on confession or by default, or <i>ex parte</i> , without <i>enquête</i> (that is to say, without the examination in Court of any witness or party)—to the Plaintiff's Attorney.	1	5 0	0	7 6	0	5 0	
And to the Defendant's Attorney.	0	10 0	0	5 0	0	2 6	
On the same, if the judgment be given by default or <i>ex parte</i> , but with <i>enquête</i> —to the Plaintiff's Attorney.	1	10 0	0	10 0	0	7 6	
And to the Defendant's Attorney.	0	10 0	0	5 0	0	2 6	
On the same, in Actions discontinued after contestation—to the Plaintiff's Attorney.	2	0 0	0	10 0	0	5 0	
And to the Defendant's Attorney.	1	0 0	0	10 0	0	5 0	
On the same, when judgment shall be given after contestation—to the Plaintiff's Attorney.	3	10 0	0	12 6	0	7 6	
And to the Defendant's Attorney.	3	0 0	0	10 0	0	5 0	
In all Hypothecary Actions, mixed Actions, or Actions for personal wrongs, the same fees as in first class Actions.							
On all oppositions (except oppositions <i>a fin de conserver</i>) interventions, and <i>requêtes civiles</i> , when contested, and also on contestations of <i>saisie arrêt</i> after judgment, or of declarations made by garnishees, the same fees as in the original Actions to which the same shall be incident.							
In all incidental cross <i>demandes</i> , half the fees allowed in original actions for a like sum.							
ADDITIONAL FEES ON CERTAIN PROCEEDINGS.							
On each opposition, <i>a fin de distraire</i> , or <i>a fin d'annuler</i> , intervention or <i>requête civile</i> , not contested.	1	0 0	0	10 0	0	5 0	
On each opposition <i>a fin de conserver</i> .	1	0 0	0	10 0	0	5 0	
On a <i>saisie arrêt</i> after judgment, when there is no contestation.	0	10 0	0	5 0	0	2 6	
On suing out any writ of <i>saisie gagerie</i> , <i>saisie revendication</i> , or <i>saisie arrêt</i> , before judgment, or on any special declaration required by the Court.	0	7 6	0	5 0	0	2 6	

S

TABLE

TABLE OF FEES in the Inferior Terms of the Courts of Queen's Bench, &c.—Continued.

TO THE ATTORNEY.		First Class Actions, £20 or under, but above £10.	Second Class Actions, £10 or under, but above £6. 5.	Third Class Actions, £6. 5. or under.	In every case.
		£ s. d.	£ s. d.	£ s. d.	£ s. d.
ADDITIONAL FEES ON CERTAIN PROCEEDINGS.					
For each copy, more than one, of any declaration, petition in intervention, or opposition.....					
For each plea in writing ordered by the Court, including copy.....					
On each rule to take up the <i>instance</i> or to declare a judgment executory, or for <i>contrainte par corps</i> , or other rule of a like nature when declared absolute—to the Attorney prosecuting the same.....					
And when over-ruled to the Attorney resisting the application.....					
On a <i>commission rogatoire</i> , and all proceedings relative thereto—to the Attorney suing out the same.....					
And to the Attorney of the opposite party.....					
To the Attorney employed by either party to attend to the execution of such commission.....					
For every copy of a rule or order of Court.....					
For suing out any writ of execution.....					
For bill of costs and attendance at taxation.....					
TO THE CLERK.					
For every writ of summons or attachment, (<i>saisie arrêt</i> , <i>saisie gagée</i> , <i>saisie revendication</i> , or <i>copias</i>) filing the <i>procès</i> , and furnishing a copy of such writ.....					
For every original <i>subpena</i>					
On the entry of any cause, or the filing of any intervention, <i>requête civile</i> , opposition or incidental <i>demande</i>					
On the contestation of the same—to be paid by the party contesting it.....					
For each <i>commission rogatoire</i> , and the proceedings relative thereto.....					
For each rule for <i>faits et articles</i> , <i>serment décisive</i> , <i>reprise d'instance</i> , or other rule of like nature.....					
For each copy of a <i>subpena</i> or rule, and for each copy more than one of any writ.....					
For an office copy of any document, including the certificate, per hundred words.....					
For each appeal bond, and on each evocation, including attendance and the making up and transmission of the record.....					
For each writ of execution.....					
For each bill of costs and certificate, if demanded.....					
On the execution of a <i>commission rogatoire</i> from any other Court.....					

On the examination and cross examination (if any) of each witness under such <i>commission rogatoire</i>	0	2	0	0	2	0	0	2	0	0	4	0
For a copy of any judgment, whether interlocutory or final, if demanded.....	0	2	0	0	0	1	6	0	1	0	0	0
On each appointment of a Tutor or Curator (<i>acte de tutelle ou de curatelle</i>) or other appointment of a like nature, and one copy thereof.....	..	..	..	..	..	..	..	..	..	..	0	4
On the closing of an inventory, and certificate of the same.....	..	..	..	..	..	..	..	..	..	..	0	3
On any <i>insinuation</i>.....	..	..	..	..	..	..	..	..	..	..	0	1
And for each one hundred words of the document registered.....	..	..	..	..	..	..	..	..	..	..	0	0
Drawing report of distribution.....	0	10	0	0	7	6	0	5	0	0	0	6
TO THE CRIER.												
On every action, opposition or intervention returned into Court.....	0	1	6	0	1	3	0	1	0	0	0	0
TO THE TIPSTAFF.												
On every action, opposition or intervention returned into Court.....	..	..	..	..	..	..	..	..	..	..	0	0
TO THE SHERIFF OR BAILIFFS.												
Mileage on the service or execution of a writ or of process of any kind, at the rate of six pence per mile—without any further charge for mileage on any other process to be served on the same party then in the hands of the Sheriff or Bailiff, and which shall be or might have been served at the same time, (whether such process shall have been sued out by the same party or by any other) and without any charge for mileage in returning, but exclusive of sums paid at toll gates, ferries or bridges.	0	1	0	0	1	0	0	1	0	0	1	0
For the service, certificate or return, of such writ or process.....	0	7	6	0	5	0	0	3	9	0	3	9
For the seizure of goods and chattels, and all incidental trouble, but exclusive of <i>mileage</i>	0	1	8	0	1	8	0	1	8	0	1	8
For his <i>recors</i>	0	7	6	0	5	0	0	3	9	0	3	9
For the sale of goods and chattels, exclusive of mileage.....	0	1	0	0	1	0	0	1	0	0	1	0
For publishing the notices of the sale.....	0	1	0	0	1	0	0	1	0	0	1	0
For the service of any notice, and the certificate and return.....	0	1	0	0	0	1	0	0	1	0	0	1
If the writ be returnable into the Queen's Bench in Superior Term, the fees to the Sheriff will be the same as if it had issued out of the said Court in Superior Term.	0	1	0	0	0	1	0	0	1	0	0	1

CAP XVII.

An Act to establish the District of Gaspé, and to provide for the due administration of Justice therein.

[9th December, 1843.]

Preamble.

WHEREAS, from the increase of Population and Commerce in the Inferior District of Gaspé, it hath become necessary to make more ample provision for the due administration of Justice therein, to change the system of Judicature heretofore existing there, which has been found by experience to be inadequate to the wants of the inhabitants of that important section of the Province, and to establish therein as nearly as circumstances will allow, the same system of Judicature which is established in other portions of the Province; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that so much of the Act of the Legislature of Lower Canada, passed in the thirty-fourth year of the Reign of His late Majesty King George the Third, and intituled, "*An Act for the division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned*," as constitutes the Inferior District of Gaspé, or provides for the establishment of a Provincial Court therein, or enacts that the said Inferior District, or any part thereof, shall for any purpose whatever form part of the District of Quebec, shall be and so much of the said Act is hereby repealed, and the said Provincial Court shall be and is hereby abolished.

Certain parts of the Act of L. C. 34 Geo. 3, c. 6, repealed, and the Provincial Court and Inferior District of Gaspé abolished.

District of Gaspé constituted.

II. And be it enacted, that all that part of this Province which heretofore constituted the Inferior District of Gaspé, shall hereafter constitute and be called the "District of Gaspé," and shall be, for all purposes of Judicature whatever, entirely separate and distinct from the District of Quebec, and the said District of Gaspé and the Courts therein to be established shall be in all things in the same relative position with regard to the other Districts of Lower Canada and to the Courts therein, in which each of the said other Districts, and the Courts therein established, is with regard to the other Districts or with regard to the Courts therein established.

Two District Judges to be appointed in

III. And be it enacted, that there shall be appointed, by separate Letters Patent under the Great Seal of this Province, two District Judges in and for the said

said District of Gaspé, one of whom shall reside at Percé, in the County of Gaspé, and the other at New Carlisle, in the County of Bonaventure, as shall be directed by the Letters Patent appointing them, respectively ; and that no person shall be appointed to be such District Judge, unless he shall be at the time of his appointment as aforesaid, an Advocate of five years' standing at the Bar of Lower Canada, or shall have been a Judge of the Provincial Court hereby abolished ; and that no such District Judge shall sit or vote in the Executive Council, or in the Legislative Council, or in the Legislative Assembly of this Province, or shall hold any other place of profit under the Crown in this Province, so long as he shall hold the said office of District Judge.

the said District.

IV. And be it enacted, that in each of the said Counties of Gaspé and Bonaventure, there shall be Courts of Record of Civil Jurisdiction, to be called Circuit Courts, which shall be holden by and before one of the District Judges to be appointed as aforesaid : Provided always, that the Circuit Courts in the County of Gaspé, shall be ordinarily holden by and before the District Judge resident at Percé, and the Circuit Courts in the County of Bonaventure, shall be ordinarily holden by and before the District Judge resident at New Carlisle but if from illness, necessary absence, interest in a suit or action, recusation, or other cause, either of the said District Judges be unable to hold any Court, hear any cause or perform any duty, required to be holden, heard or performed in the County in which he shall be resident, it shall be the duty of the other Judge, on being informed thereof, to hold such Court, hear and determine such cause, or perform such duty, if it be in his power so to do, without neglecting equally important and urgent duties in the County in which he shall be resident ; nor shall any thing in this Act be construed to prevent either of the said District Judges from exercising or performing within either of the said Counties any power or duty which he could lawfully perform or exercise in the other, and the said District Judges shall mutually assist each other to the best of their ability in the performance of their judicial duties in the said District of Gaspé.

Circuit Courts established in the said District.

By whom to be held.

V. And be it enacted, that except in those cases in which it is otherwise provided by this Act, or where it shall be inconsistent with the express enactments thereof, the Circuit Courts hereby established, and the Judges and Officers thereof, shall have like jurisdiction, power, authority and duties with the Circuit Courts established by the Act passed during the present Session, and intitled, "*An Act to amend the law relative to the Administration of Justice in Lower Canada*," and the Judges and Officers thereof respectively, and shall, as shall also the Attornies practising therein, be bound by the same Rules and Provisions of law ; and in all suits and actions, to be brought therein, an appeal shall lie, or such suits or actions may be evoked or removed to or into the Court

Except as hereinafter excepted, the said Circuit Courts and the Judges and Officers to have the same powers as those in other Districts.

of

of Queen's Bench hereinafter established for the said District of Gaspé, in like cases and in the same manner, and subject to the same provisions of law, in and under which appeals lie or suits and actions may be removed from the Circuit Courts in any other District in Lower Canada to the Court of Queen's Bench in and for the same, sitting in superior Term.

Writs and
process how
tested.

VI. Provided always, that the Writs and process issuing out of any Circuit Court hereby established shall be tested in the name of the District Judge by whom such Court is to be ordinarily holden, except where such Judge shall be a party to the suit or action, in which case they shall be tested in the name of the other of the said District Judges; and that every suit or action brought in any such Court in which there shall be an appeal to the said Court of Queen's Bench, or which shall be evoked or removed to the said Court, shall be heard and determined (in appeal or otherwise, as the case may be,) at the sitting of the said Court of Queen's Bench held in the same County, unless by the consent of all the parties, with which consent it may be heard and determined in the other of the said Counties.

Certain Spe-
cial provisions
as to appeals
from the said
Courts.

VII. Provided also, and be it enacted, that the party desirous of appealing from any Judgment of any Circuit Court established by this Act, shall have a delay of thirty days after the rendering of such Judgment, to give the security in Appeal by Law required; that the Petition and notice of Appeal shall and may be served within forty days from the rendering of the Judgment appealed from; and that the said Petition shall and may be presented on any of the first ten juridical days of the sitting of the said Court of Queen's Bench hereby established, at which the Appeal can be heard, next succeeding the rendering of any such Judgment, if there shall be an interval of fifty days between the rendering of such judgment and the last of the said first ten juridical days of the said sitting, and if there shall not be such an interval, then on the first juridical day of the second sitting of the said last mentioned Court of Queen's Bench next succeeding the rendering of such judgment.

Bailiffs in the
said District,
by whom ap-
pointed and
their powers.
&c.

VIII. Provided also, and be it enacted, that Bailiffs appointed by the said Circuit Courts, or by the said Court of Queen's Bench hereby established, shall have power and authority to act as such within the limits of the said District of Gaspé, for the service and execution of all writs, orders and process issuing as well from the said last mentioned Court of Queen's Bench and the said Circuit Courts, as from all other Courts of Justice in Lower Canada; and such Bailiffs shall be removable by the said last mentioned Court of Queen's Bench, or by any of the said Circuit Courts; and all Bailiffs so appointed shall give security in the manner by Law required with regard to Bailiffs in other Districts, and
under

under like provisions, but the Bond shall be taken before the Clerk or Prothonotary of the Court in which the Bailiff shall be appointed, in whose office it shall remain, and who shall have the same duties with regard to it and to the Bailiff to whom it shall relate, as the Clerk or Prothonotary of any Court of Queen's Bench, in any other District, would by Law have in any case where a Bailiff had given security before him : Provided also, that Bailiffs who before the commencement of this Act, shall have been duly appointed to such office by the Provincial Court hereby abolished, shall have power and authority to act as such for the service and execution of all such writs, orders, and process issuing as aforesaid, during six months after the commencement of this Act, and no longer.

Proviso as to those appointed before the commencement of this Act.

IX. Provided also, and be it enacted, that each of the Circuit Courts, and the Court of Queen's Bench hereby established, shall have the like power and authority to inquire into the conduct of any Bailiff for the said district of Gaspé, or of any other officer of such Court acting under colour or pretence of the process of such court, who shall be guilty of extortion or misconduct, or shall not duly pay or account for any money levied or received by him under the authority of this act, and to punish any misconduct of such Bailiff, or such other officer, and to grant redress to the party aggrieved thereby, as any Court of Queen's Bench has by law to inquire into the conduct of any Bailiff or such other officer of the District in which it is established, and to punish him for misconduct, and to grant redress to the party aggrieved ; and if any such Bailiff or such other officer be committed to Goal in consequence of such misconduct, the committal shall be to the Common Gaol of that one of the said counties in which the Court committing him shall be held.

Powers of the Courts in Gaspé as to Bailiffs and other Officers.

X. Provided also, and be it enacted, that so far as it shall be found practicable, and a fit and competent person can be found willing to accept this office, a Bailiff or Bailiffs shall be appointed in each of the Townships or principal settlements in the said District of Gaspé, and it shall be the duty of any party suing out any process either from any Circuit Court or from the Court of Queen's Bench, or of the Sheriff, as the case may be, to cause such process to be served or executed by the Bailiff residing nearest to the place of service or execution.

Bailiffs to be appointed in each settlement, &c.

XI. And be it enacted, that the said Circuit Courts shall be holden every year at the times and places hereinafter appointed, and the local extent and limits of the jurisdiction of each of the said Courts shall be as follows, that is to say :—

Terms and local jurisdiction of Circuit Courts.

In the said County of Gaspé, at Percé, in and for the Circuit to be called "The Percé Circuit," from the first to the tenth day of each of the months of

Percé Circuit.

of March and November, both days inclusive ; and the said Circuit shall comprise that part of the said County which extends along the coast of the Gulf of Saint Lawrence, from Whale Head on the South side of the entrance to Gaspé Bay, to Cap D'Espoir, including the settlements of Point St. Peter, Malbay, Percé, Ance à Beaufils, and Ance du Cap :

Basin Circuit. In the said County of Gaspé, at the Basin of Gaspé, in and for the Circuit to be called "The Basin Circuit," from the fifteenth to the twenty fourth day of each of the months of March and November, both days inclusive ; and the said Circuit shall comprise that part of the said County which extends along the coast of the River and Gulf of Saint Lawrence, from Cap Chat to Whale Head aforesaid, including all the settlements on Gaspé Bay and along the said coast within the limits above mentioned :

Grande Rivière Circuit. In the said County of Gaspé, at Grande Rivière, in and for the Circuit to be called "The Grande Rivière Circuit," from the first to the tenth day of each of the months of April and December, both days inclusive ; and the said Circuit shall comprise that part of the said County, which extends along the coast of the said Gulf of St. Lawrence, from Cap D'Espoir aforesaid westward, to Point Mackerel, at the entrance of the Bay of Chaleurs, including the settlements of Cap D'Espoir, Petite Rivière, Grande Rivière, Pabos and Newport :

Magdalen Islands Circuit. In the said County of Gaspé, at Amherst Harbour, on the principal island of the Magdalen Islands, in and for the Circuit to be called "The Magdalen Islands Circuit," from the first to the tenth day of July, both days inclusive ; and the said Circuit shall include all the Islands called the Magdalen Islands, so long as the same shall form part of this Province :

New Carlisle Circuit. In the said County of Bonaventure, at New Carlisle, in and for the Circuit to be called "The New Carlisle Circuit," from the fifteenth to the twenty fourth day of each of the months of May and December, both days inclusive ; and the said Circuit shall comprise that part of the said County, which extends along the coast of the said Bay of Chaleurs, from Point Mackerel aforesaid, westward, to the river commonly called and known as the River Capelan, near Black Cape, in New Richmond, including the settlements of Ance aux Gascons, Port Daniel, East Nouvelle Hope, Paspebiac, New Carlisle and Bonaventure :

Carleton Circuit. In the said County of Bonaventure, at Carleton, in and for the Circuit to be called "The Carleton Circuit," from the fifteenth to the twenty fourth day of each of the months of January and July, both days inclusive ; and the said Circuit shall comprise that part of the said County which extends westward from the

Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that so much of an Act of the Legislature of Lower Canada, passed in the thirty fourth year of the Reign of His late Majesty King George the Third, intituled, *An Act for the division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain laws therein mentioned*, as in any manner relates to the establishment and constitution of the said Provincial Court of Appeals in Lower Canada, shall be, and the same is hereby repealed, and the said Provincial Court of Appeals shall be and the same is hereby abolished.

Part of the
Act of L. C.
34 G. 3. c. 6
repealed.

II. And be it enacted, that there shall be established in Lower Canada, a Court of Record to be called "The Court of Appeals for Lower Canada"; and the said Court shall consist of all the Justices of the several Courts of Queen's Bench in Lower Canada.

Court of
Appeals estab-
lished.

III. And be it enacted, that the Court of Appeals hereby established, and the Justices thereof, shall have, hold and exercise an Appellate Civil Jurisdiction, and also the Jurisdiction of a Court of Error, within and throughout Lower Canada, with full power and authority to take cognizance of, hear, try and determine in due course of Law, all causes, matters and things appealed and to be appealed, removed and to be removed by Writ of Error from all and every the Courts and jurisdictions wherefrom an Appeal or Writ of Error by law lies or is allowed, or hereafter may by law lie or be allowed.

Appellate
jurisdiction of
the Court.

IV. And be it enacted, that all and every the powers, authorities and jurisdiction which by law are required to be exercised, and may or might be exercised by and are vested in the Provincial Court of Appeals hereby abolished, and by or in the several Judges or Members thereof, or any of them, as well in Court as out of Court, in Term as out of Term, or in Vacation, shall, in so far as the same may not be inconsistent with the other provisions of this Act, become and be vested in the Court of Appeals hereby established, and shall and may be as effectually exercised by the said last mentioned Court of Appeals and the Justices thereof, severally and respectively, in Court or out of Court, in Term or out of Term, or in Vacation, as the same might have been exercised and enjoyed by the Provincial Court of Appeals hereby abolished, and the several Judges or Members thereof, or any of them, in Court or out of Court, in Term or out of Term, or in Vacation, if this Act had not been passed.

Powers of the
former Court
of Appeals
transferred to
the Court
hereby estab-
lished, where
not inconsis-
tent with this
Act.

Order of precedence among the Justices of the Court.

V. And be it enacted, that in the Court of Appeals hereby established, the Chief Justice of Lower Canada, or in his absence, or in the case of vacancy of his office, the Chief Justice for the District of Montreal or for the District of Quebec, as the case may be, or in the absence of both the said Chief Justices, or in case of vacancy of their offices, respectively, the senior of the other Justices present shall preside; and when both the said Chief Justices shall happen to be sitting together in the said Court, the Chief Justice of Lower Canada shall have precedence.

Terms of the Court

Quorum.

Proviso.

VI. And be it enacted, that three Terms of the Court of Appeals hereby established shall be holden in every year by the Justices thereof, in which Terms any four of the said Justices shall form a Quorum, and may hold the Court and exercise the powers and authority thereof; and that the said Terms shall be so holden alternately in the Cities of Quebec and Montreal, during the following periods, that is to say: from the first to the tenth day of each of the months of March, July and November, both days inclusive: Provided always, that the first Term of the said Court shall be held in the City of Quebec.

Justices of the Court appealed from not to sit in Appeal.

Proviso:—
a judgment concurred in by a majority of the Justices present to be binding.

Judgment appealed from, to be affirmed when the Court is equally divided.

Clerk to be appointed.

To have a Deputy.

Deputy's powers.

Proviso.

VII. And be it enacted, that in any case brought before the Court of Appeals hereby established, the Justices of the Court appealed from shall not sit and act in the said Court of Appeals, whether such Justices shall in the Court below have concurred in or dissented from the Judgment appealed from, or shall have been absent at the rendering thereof: Provided always, that any Judgment or Order concurred in by any Majority of the Justices present at any sitting of the said Court of Appeals, shall have the same force and effect as if concurred in by all the Justices present: And provided also, that the judgment appealed from shall stand and be affirmed in all cases where the Justices present at any sitting of the said Court of Appeals shall be equally divided on the question whether such judgment shall be affirmed or not.

VIII. And be it enacted, that it shall be lawful for the Governor of this Province to appoint, from time to time, a Clerk of the Court of Appeals hereby established; and the said Clerk shall reside either in the City of Quebec, or in the City of Montreal, and shall, by an instrument under his hand and seal, appoint a Deputy who shall reside in that one of the said Cities in which the said Clerk shall not have his domicile; and such Deputy is hereby authorized to perform the duties of the Clerk of the Court of Appeals, and shall continue to perform the said duties as acting Clerk of the said Court of Appeals, in case of the death, dismissal, suspension from office, or resignation of the said Clerk, until the appointment of his Successor in the said office; and the instrument by which such Deputy Clerk shall have been appointed, shall be entered at full length in the Register of the Court: Provided always, that it shall be lawful for the

the said Clerk, at all times, to remove such Deputy, and to appoint another in his place.

IX. And be it enacted, that no Clerk or Deputy Clerk of the said Court of Appeals, shall during his continuance in office, or while he shall be such Deputy, practise as an Advocate, Proctor, Solicitor, Attorney or Counsel in any Court of Law in Lower Canada.

Clerk or his Deputy not to practise as Attorney, &c.

X. And be it enacted, that all Writs and Process to be issued from and out of the said Court of Appeals hereby established, shall run and be in the name and style of Her Majesty, Her Heirs and Successors, and shall be sealed with the seal of the said Court, and shall be tested in the name of that one of the Justices of the said Court present in Lower Canada, who for the time being, shall be entitled to precedence over the other Justices thereof, and shall be signed by the said Clerk or his Deputy, whose duty it shall be to prepare and make out the same; and every such Writ or Process shall be in both the English and the French language; any law, usage or custom to the contrary notwithstanding.

Style of Writs and Process.

To be in both languages.

XI. And be it enacted, that whenever any number of the Justices of the said Court of Appeals hereby established shall be lawfully recused, or disqualified or rendered incompetent, either by reason of interest or otherwise, to sit in the said Court of Appeals, in any cause cognizable thereby, so as to leave the said Court without a Quorum to take cognizance of the same, it shall be the duty of the Clerk of the Court, when duly required so to do in writing by any of the parties, to report the fact to the Governor of this Province, and such report shall be signed by him and sealed with the seal of the said Court; and it shall then be lawful for the Governor of this Province, by an instrument under his hand and seal to appoint *ad hoc* a like number of Members of the Bar of Lower Canada, to sit in the said Court of Appeals, in the place and stead of the Justices so recused, or disqualified or rendered incompetent, for the purpose of hearing and determining such cause as aforesaid; and the persons so appointed to act as Justices *ad hoc*, shall, when acting as such, have the same powers and authority in and with respect to the said cause as the Justices so recused, disqualified or rendered incompetent would otherwise have had: Provided always, that the persons so appointed shall be of at least eight years' standing at the Bar of Lower Canada.

Case of recusation, or disqualification of Justices provided for.

Justices *ad hoc* to be appointed.

Proviso.

XII. And be it enacted, that all and every the Laws of Lower Canada, which immediately before the period hereinafter appointed for the commencement of this Act, shall be in force to govern and direct the proceedings and practice of the Provincial Court of Appeals hereby abolished, and which are not repealed or varied

Certain Laws extended to the Court of Appeals.

varied by this Act, or inconsistent with the provisions thereof, shall continue to be in force and be observed in and by the Court of Appeals hereby established, in the same manner as they would have been observed in the Provincial Court of Appeals hereby abolished, if this Act had not been passed.

Court of Appeals to make Tariff of Fees and Rules of Practice for the said Court, and for the Courts of Q. B. in Superior Term.

XIII. And be it enacted, that it shall be the duty of the Court of Appeals hereby established, within twelve months after the commencement of this Act, to make and establish, as well for the said Court of Appeals as for the several Courts of Queen's Bench in Lower Canada, in the Superior Terms thereof, a Tariff of Fees for the Officers of the said Courts, respectively, and the Attornies practising therein, and also such Rules of Practice as may be necessary in civil matters, touching the service of Process, the execution and return of Writs, proceedings for bringing causes to issue and judgment as well those to be had in Court as out of Court, in term as out of term and in vacation, and other matters of proceeding and regulations touching the conduct of the business before the said Courts respectively ; which Tariff of Fees and rules of practice, the said Court of Appeals shall have power and authority to repeal, alter and amend from time to time : Provided always, that no rule of practice so to be made and established by the said Court of Appeals, shall be contrary to, or inconsistent with this Act, or any other Act or Law in force in Lower Canada ; otherwise the same shall be null and void : And provided also, that until such Tariff of Fees and rules of practice shall be made and duly established by the said Court of Appeals as aforesaid, for the said Court and for the said Courts of Queen's Bench, respectively, the Tariff of Fees and rules of practice in force with regard to the Provincial Court of Appeals hereby abolished, immediately before the commencement of this Act, shall be in force with regard to the Court of Appeals hereby established, and the Tariff of Fees and rules of practice in force at the time last mentioned with regard to the several Courts of King's Bench (thereafter to be in certain cases called Courts of Queen's Bench) in Lower Canada, shall continue to be in force with regard to the said Courts, respectively ; subject however to such amendments as may be made therein by the said Courts of Queen's Bench, respectively, until a Tariff of Fees and rules of practice shall have been made for the said Courts of Queen's Bench respectively, by the said Court of Appeals : Provided always, that nothing herein contained shall be held to continue in force or to render valid any part of the said rules of practice which may be contrary to or inconsistent with this Act, or any Act or Law in force in Lower Canada.

Proviso.

Proviso.

What Tariffs and Rules of Practice shall be in force until others, shall be made by the Court of Appeals.

Proviso.

Part of the Act of L. C. 41 G. 3, c. 7, to be repealed, after a certain period.

XIV. And be it enacted, that so much of the Act of the Legislature of Lower Canada, passed in the forty-first year of the Reign of His late Majesty King George the Third, intituled, *An Act to amend certain forms of proceeding in the Courts of Civil Jurisdiction in this Province, and to facilitate the Administration of Justice,*

Justice, or of any other Act or Law, as empowers any Court of King's Bench, (or Queen's Bench) to establish orders and rules of practice touching the service of Process, the execution and returns of Writs, or proceedings for bringing causes to issue, and other matters of regulation within the said Courts, for or with regard to the Superior Terms of the said Courts, shall be and is hereby repealed from and after the expiration of one year from the commencement of this Act.

XV. And be it enacted, that all final judgments rendered by the said Court of Appeals hereby established, shall contain a summary statement of the points of Fact and Law, and the reasons upon which such judgment shall be founded, and the names of the Justices who shall have concurred therein or entered their dissent therefrom.

Judgments
of the Court to
be motives.

XVI. And whereas it is necessary to provide for the performance of the duties of the Justices of the several Courts of Queen's Bench in Lower Canada, during the Terms of the Court of Appeals hereby established, and during a certain time before and after: Be it therefore enacted, that the Circuit Judges in and for either of the Districts of Quebec and Montreal, and the Commissioners of Bankrupts resident in the Districts of Three Rivers and St. Francis, respectively, shall, during any Term of the Court of Appeals, and during the four days next before the first day, and during the four days next after the last day of such Term, have and exercise, in such Districts, respectively, the same powers and authority as if they were appointed, for the period aforesaid, Assistant Judges of the Court of Queen's Bench in and for such Districts, respectively; excepting always the power of sitting in the said Court of Appeals.

Provision for
the perform-
ance of the du-
ties of the Jus-
tices during
their attend-
ance at the
Court of Ap-
peals.

XVII. And be it enacted, that an Appeal shall lie from the judgments of the Court of Appeals hereby established, to Her Majesty, Her Heirs and Successors, in Her or Their Privy Council, in that part of the United Kingdom of Great Britain and Ireland called England, in all, each and every of the cases in and with respect to which an Appeal, immediately before the commencement of this Act, would lie from the judgments of the Provincial Court of Appeals hereby abolished, to Her Majesty in Her Privy Council, upon the terms and conditions, and in the manner and form, and under and subject to the restrictions, rules and regulations established with regard to Appeals from the said Provincial Court of Appeals to Her Majesty in Her Privy Council.

Appeals to
Her Majesty
in Privy Coun-
cil.

XVIII. And be it enacted, that all and every the Records, Registers, Documents and proceedings of the Provincial Court of Appeals hereby abolished, shall forthwith after the commencement of this Act, be transmitted into and make part of the

Transfer of
Records, &c.
of the Provin-
cial Court of

Appeals abolished by this Act.

the Records, Registers, Documents and proceedings of the Court of Appeals hereby established.

Proceedings in the Provincial Court of Appeals, to be continued in the Court hereby established.

XIX. And be it enacted, that no judgment, order, rule, or act of the Provincial Court of Appeals hereby abolished, legally pronounced, given, had or done before the commencement, of this Act, shall be hereby avoided, but shall remain in full force and virtue, as if this Act had not been passed; nor shall any Cause, Appeal, Writ of Error, or proceeding, depending in the said Provincial Court of Appeals be abated, discontinued, or annulled, but the same shall in their then present condition, be respectively transferred to, and subsist and depend in the Court of Appeals hereby established, to all intents and purposes, as if they had been respectively commenced, brought or recorded in the said last mentioned Court; and the said last mentioned Court shall have full power and authority to proceed accordingly in and upon all such Causes, Appeals, Writs of Error and proceedings, to judgment and execution, and to make such rules and orders respecting the same, as the Provincial Court of Appeals hereby abolished might have made, or as the said Court of Appeals hereby established is hereby empowered to make in Causes, Appeals, Writs of Error and proceedings commenced in, or depending before the said last mentioned Court.

Returns of Writs, &c., issued out of the Provincial Court of Appeals.

XX. And be it enacted, that every Writ or Process which shall have been made returnable into the Provincial Court of Appeals hereby abolished, on any day subsequent to the commencement of this Act, shall be returnable into the Court of Appeals hereby established, and shall be held and considered to be returnable on the first day of the Term of the said last mentioned Court, next following the day on which such Writ or Process shall have been made returnable.

Laws inconsistent with this Act repealed.

XXI. And be it enacted, that so much of any Act, Ordinance or Law, as shall be repugnant to or inconsistent with this Act, shall be and is hereby repealed.

Interpretation clause.

XXII. And be it enacted, that the words, "Governor of this Province" wherever they occur in the foregoing enactments, are to be understood as meaning and comprehending the Governor or the Person authorized to execute the commission of Governor within this Province, for the time being; and that the words, "Lower Canada" wherever they occur in the said enactments, are to be understood as meaning and comprehending that part of this Province of Canada, which formerly constituted the Province of Lower Canada; and any word or words importing the singular number only, shall be understood to include several matters of the same kind as well as one matter, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

XXIII.

XXIII. And be it enacted, that the foregoing enactments of this Act shall commence and have force and effect upon, from and after the twenty first day of April, one thousand eight hundred and forty four, and not before.

At what time
this Act shall
come into
force.

CAP XIX.

An Act to provide for the Summary Trial of Small Causes in Lower Canada.

[9th December, 1843.]

WHEREAS experience hath shown, that an easy and expeditious mode of recovering petty debts, and deciding causes where the matter in dispute is of small value, in Lower Canada, is materially beneficial to the Inhabitants of that portion of this Province; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that whenever a petition praying for the establishment of a Commissioners' Court, for the purposes herein after mentioned, shall have been presented by at least one hundred proprietors of lands or tenements in any Parish, Township or extra-Parochial place in Lower Canada, to the Governor of this Province, it shall be lawful for him to appoint one or more persons resident in such Parish, Township or extra-Parochial place, to be Commissioner or Commissioners in and for the same, and to hold the Commissioners' Court therein, for the purposes of this Act: Provided always, that no appointment of a Commissioner or Commissioners shall be made upon such Petition, unless it shall be certified thereupon to the Governor, by three of the principal Inhabitants of such Parish, Township or extra-Parochial place, that the persons whose names are thereunto subscribed, are really inhabitants of such Parish, Township or extra-Parochial place, and proprietors of lands and tenements therein: And provided also, that no Bailiff, Serjeant of Militia, Tavern-keeper or person keeping a house of public entertainment, shall be appointed, or shall act as a Commissioner, for the purposes of this Act.

Preamble.

On Petition
of the Inhabi-
tants, Commis-
sioners' Courts
may be estab-
lished in cer-
tain places.

Proviso.

Proviso—Cer-
tain persons
not to be Com-
missioners.

II. Provided always, and be it enacted, that in and for the Cities and Parishes of Quebec and Montreal, the Circuit Judges hereafter to be appointed in and for the Districts of the same names, respectively, under a certain Act passed during the

Circuit Judges
to be Commis-
sioners *ex offi-
cio* in Quebec
and Montreal.

Proviso.

the present Session, shall be *ex officio* Commissioners for the purposes of this Act, and shall hold the Commissioners' Courts in and for the places aforesaid, respectively: Provided a petition, as hereinbefore required, be presented, and no other Commissioners shall at any time be appointed in and for the same: Provided also, that by the City and Parish of Quebec, the Parish of St. Roch shall be understood to be intended and included for all the purposes of this Act.

Amount of Jurisdiction of the Commissioners' Courts, and class of cases therein cognizable.

III. And be it enacted, that each of the Commissioners' Courts aforesaid, shall have power to hear, try and determine, in a summary way, according to the rights of the parties, and to equity, and good conscience, and to the best of the knowledge and judgment of the Commissioner or Commissioners by whom they shall be held, all suits and actions, (with the exceptions hereinafter made) purely personal or relating solely to moveable property, wherein the sum or the value of the thing demanded shall not exceed six pounds five shillings, currency, and the Defendant or Defendants shall be resident within the Parish, Township or extra-Parochial place, in and for which the Commissioner or Commissioners shall have been appointed.

Exceptions.

IV. Provided always, and be it enacted, that the Jurisdiction of the Commissioners' Courts established under this Act shall not extend to actions for Slander, or for Assault or Battery, nor to such as shall relate to Paternity, or to the Civil Estate of persons in general, or for Seduction, or Lying-in expenses, or for any Fine or Penalty whatever.

Persons under 21 but over 14 years, may sue for wages.

V. And be it enacted, that any person under the age of twenty-one years, but above the age of fourteen years, may prosecute a suit in any Commissioners' Court held under this Act, for any sum of money not exceeding six pounds five shillings, currency, due to him for wages, in the same manner as if he were of full age; any law to the contrary notwithstanding.

Oral testimony receivable tho' the amount in dispute exceed 100 livres.

VI. And be it enacted, that in matters cognizable in the said Commissioners' Courts, proof by oral testimony shall be receivable and sufficient in all cases wherein, before the passing of this Act, it would have been receivable and sufficient, if the sum or the value of the thing in dispute had been of less than one hundred livres, *ancien cours*; and any law heretofore in force in Lower Canada, requiring proof in writing, or a commencement of proof in writing, in such cases, is hereby repealed.

Defendant may in certain cases be sued, before the

VII. Provided also, and be it enacted, that whenever there shall not be a Commissioner appointed for and resident in the Parish, Township, or extra-Parochial place in which the Defendant shall reside, or if all the Commissioners be absent
or

or sick, or unable to act as Commissioners, so that the Court cannot be held, then such Defendant may be sued before that other Commissioners' Court which shall be held nearest to the place in which the Defendant shall reside and in the same District, provided the distance do not exceed ten leagues; and in every case the suit may be brought before the Commissioners' Court nearest to the residence of the Defendant, although such Court be not within the same Parish, Township, or extra-Parochial place, provided it be within ten leagues, and in the same District.

nearest Court, tho' not in the same Parish, &c.

VIII. Provided always, and be it enacted, that no more than one Court shall be held in any Parish, Township, or extra-Parochial place in Lower-Canada, under this Act, although two or more Commissioners may have been appointed for the same; but the Court may be held by any one of such Commissioners, it being nevertheless competent to all the Commissioners appointed in and for the same place, to be present and to assist at such Court if need be, or if they think fit: and, except in the Cities and Parishes of Quebec and Montreal, the place where the Court shall be held in each Parish, Township or extra-Parochial place, shall be near the Church, or at the most public and frequented place, and shall from time to time be fixed by the Commissioner, or by the majority of the Commissioners where there are more than two Commissioners in and for the same place, and when there are two Commissioners and no more, then by the Commissioner whose name is the first on the list; and in every Summons or Order of *Subpœna* to be issued under this Act, the place where the Court is to be held shall be mentioned.

One Court only to be held in each place.

Places for holding the Courts.

By whom fixed.

To be mentioned in Summons, &c.

IX. And be it enacted, that except in and for the Cities and Parishes of Quebec and Montreal, the Commissioners' Courts aforesaid shall be held on the first Monday of every month, not being a holiday, and if it be a holiday then on the following day, and on any other days to which they may then find it necessary to adjourn for hearing witnesses and for determining suits; and that such Courts, respectively, shall so be held publicly in some suitable room or place, which shall be provided for that purpose by the Clerks thereof, under the direction of the Commissioners; and the expense of hiring and warming such room or place, and all other expenses necessary for the convenient holding of the said Courts shall be paid by such Clerks, respectively, out of the fees hereinafter assigned to them: Provided always, that no such Court shall at any time be held in any tavern or place of public entertainment, nor in any building thereunto appertaining.

Times of holding the Courts.

Room to be provided by the Clerk.

Proviso.

X. And be it enacted, that in and for the said Cities and Parishes of Quebec and Montreal, respectively, the Commissioners' Court shall be held weekly on every Monday not being a holiday, and if it be a holiday then on the following day, and on such other days as it shall be adjourned to in the manner provided with regard to other Commissioners' Courts; and in and for the said Cities and Parishes

Times and places of holding the Courts in Quebec and Montreal.

ishes the Commissioners' Courts shall be held in the Court Houses there situate, and in such part thereof as shall from time to time be assigned for the purpose by the Justices of the Courts of King's (or Queen's) Bench sitting in such Court Houses, respectively.

Summons,
how issued.

XI. And be it enacted, that in any case cognizable in a Commissioners' Court, it shall be lawful for any one of the Commissioners, upon request or application to him made, to grant and cause to be issued a Summons which shall be in the form of that one of the Schedules annexed to this Act which shall suit the case, and shall not be returnable within less than three days from the day of service, in cases where the Defendant shall reside within two leagues from the place at which he shall be summoned to appear, allowing one day more between the service and return of every such Summons for every five leagues distance over and above the said two leagues.

Delay between
service and re-
turn of Sum-
mons.

Case of re-
cusation of
Commission-
ers provided
for.

XII. And be it enacted, that if in any suit all the Commissioners be recused by either party (and any recusation and the grounds thereof shall be reduced to writing) and the Court be thereby rendered incompetent to proceed with the case, such suit shall immediately be transmitted to the nearest Commissioners' Court in the same District; and if the recusation be there adjudged valid, such Court shall proceed to hear and determine the cause; but if the recusation shall be adjudged frivolous or unfounded, the parties shall be sent before the Court in which the Commissioners shall have been recused, in order that such Court may proceed as if the recusation had not been made; and in such case the Court before whom the cause shall have been originally brought, may, without any reference to the merits thereof, tax the costs of such frivolous or unfounded recusation against the party by whom it shall have been made.

Evocation and
Appeal allow-
ed in certain
cases.

XIII. And be it enacted, that in all cases where a Defendant or other party may evoke a suit out of any Circuit Court into the Court of King's Bench, or out of the Inferior Term of any Court of Queen's Bench, into the Superior Term thereof, and may appeal from thence to the Court of Appeals for Lower Canada and to Her Majesty in Her Privy Council, such Defendant or other party, being a suitor before a Commissioners' Court, shall have the same right of evocation and appeal, and may evoke the suit to the Superior Term of the Court of King's (or Queen's) Bench for the District: Provided always, that in all cases where any suit or action, against any person residing within the Jurisdiction of any Court established by this Act for any cause or matter cognizable before such Court, shall be brought before any District, Division, or Circuit Court, or Court of Queen's Bench, the Plaintiff shall not be entitled to recover any greater amount of Costs than if such suit or action, had been brought before the Court established by this

Proviso :—
As to suits
brought in Su-
perior Courts
which might
have been
brought in
Commission-
ers' Courts.

Act ;

Act; but this limitation of Costs shall not apply to any action, suit, or prosecution, after evocation from such Court.

XIV. And be it enacted, that when any notarial instrument or authentic copy of the same, or any writing under private signature, produced in evidence in any suit before any Commissioners' Court shall be alleged to be forged or falsified, such allegation shall operate as an evocation of the suit to the Court of King's (or Queen's) Bench for the District, sitting in Superior Term.

Allegation of forgery to operate as an evocation.

XV. And be it enacted, that whenever any such evocation as is herein last mentioned shall occur, and security shall have been given as hereinafter provided, the Commissioner or one of the Commissioners before whom such document shall have been alleged to be forged or falsified, or the Clerk of the Court shall, within fifteen days next thereafter, certify and transmit to the Prothonotary of the Court of King's (or Queen's) Bench, the document impugned, all the documents produced in the cause, and a certified copy of the entries in the register respecting the same: Provided always, that no Commissioner or Clerk shall so transmit any such document, unless good and sufficient security for the payment of the costs of the "*inscription en faux*" shall have been given before him by the party making such inscription.

Transmission of the document alleged to be forged, &c. on such evocation.

Proviso:—Security to be given.

XVI. And be it enacted, that upon such evocation, the Court of King's (or Queen's) Bench shall hear, try, and determine the matter of the "*inscription en faux*," and the whole matter in issue between the parties, as if the cause had been originally instituted in the said Court, and may award such costs against the party making such inscription, if he fail to substantiate the charge thereby made, as might in like case be awarded on an "*inscription en faux*," in any case before such Court.

Court of Q. B. to try the case and the *inscription en faux*.

XVII. And be it enacted, that in any suit brought before any Commissioners' Court it shall be lawful, by consent of the parties, to refer the matter or matters in contestation in the suit, or for the Court in its discretion to order the same to be referred, to the judgment and decision of three Arbitrators, one to be named by the Court, and one by each of the parties respectively, and to be sworn before a Commissioner, or before any Justice of the Peace; and such Arbitrators shall have power to hear the parties and witnesses, and the report and award of any two of them shall be final and conclusive to all intents and purposes, and judgment shall be entered thereon, to be executed as in ordinary cases.

Any matter before a Commissioners' Court may be referred to arbitration by consent of parties.

XVIII. And be it enacted, that it shall be lawful for any Commissioner entitled to sit in the Court before which any suit or action shall have been instituted, on the

Commissioners may issue *subpœnas*.

the application of either party, to issue orders of *subpœna* in the form prescribed in the Schedule to this Act, to compel the appearance of witnesses before the Court, under a penalty of not exceeding twenty shillings, nor less than five shillings, currency, for each and every default to attend, as by such order of *subpœna* commanded ; and that it shall be lawful to and for any such Commissioner to administer to such witnesses, or to any party to the suit who may be lawfully examined therein, an oath or affirmation in the usual manner.

And administer oaths to witnesses, &c.

Except in certain cases, a day subsequent to the return day to be appointed for hearing the cause.

Exceptions.

Cases in which the cause may be heard *instanter*.

Commissioners' Courts may allow judgments to be satisfied by instalments.

Proviso.

Executions to issue if the judgment be not satisfied: its nature.

Costs on it.

XIX. And be it enacted, that except as hereinafter excepted, it shall not be lawful to cause the witnesses in any suit to be summoned to attend on the day of the return of the Summons to the Defendant ; but that in all cases of default or plea to the action on the part of the Defendant, a subsequent day shall be named for receiving evidence ; saving always, that if the Defendant should make default when the service on him has been personal, it shall then be lawful for the Plaintiff to proceed immediately to prove his case by witnesses if necessary ; and in such cases, as well as in all cases of default wherein sufficient written evidence shall be adduced on the day of the return, or where the Defendant shall confess judgment, or both parties shall agree that the case be heard and determined forthwith, the Court may hear the case and give judgment, *instanter*.

XX. And be it enacted, that it shall be lawful for any Commissioners' Court, to grant a stay of execution, and to order that the amount for which judgment shall have been given, be paid in two or in three instalments, at intervals of not more than one month each ; provided that if any one of the said instalments shall not be paid at the time appointed, execution may at once issue for so much as shall then remain due : Provided always, that when any poor Defendant shall before judgment, offer good and sufficient security to the satisfaction of the Court, for the amount of the debt and costs, the Court may order that the amount of the judgment be paid by weekly instalments, the last of which shall not be made more than six months after the date of the judgment.

XXI. And be it enacted, that if any party shall refuse or neglect to pay, and satisfy any judgment rendered in a Commissioners' Court for a sum of money within eight days after it is obtained, together with such costs as shall be adjudged thereon, any one of the Commissioners entitled to sit in the Court may, by a warrant of execution under his hand and seal, and in the form of the Schedule hereunto annexed, cause the same to be levied by the seizure, and after public notice thereof shall be given according to law, by the sale of the goods and chattels of the party so refusing or neglecting as aforesaid, which shall be found within the District, together with the costs and charges attending such execution, which shall not in any case exceed the sum of seven shillings and six pence, currency : Provided always,

ways, that when the seizure only of the goods shall have taken place, the said costs and charges shall not exceed the sum of three shillings and nine pence, currency ; travelling expenses and expenses of feeding any cattle seized, excepted in all cases.

Proviso.

XXII. And be it enacted, that it shall be lawful for any Commissioners' Court, in cases cognizable by such Court, to issue Warrants of *saisie gagerie*, and *saisie revendication* (the necessary affidavit being first made before a Commissioner of such Court) and of *saisie arrêt* after judgment, in all cases where Writs of like nature are allowed to issue out of other Courts by law ; and that such Warrants shall respectively be in the forms prescribed in the Schedules hereunto annexed.

Commissioners' Courts may issue warrants in the nature of certain writs.

XXIII. And be it enacted, that in every Warrant of execution, *saisie arrêt*, *saisie revendication*, and *saisie gagerie*, the day on which it is to be returned shall be named, and it shall be returned, with the proceedings thereon duly certified, on the day so named, which shall not be less than fifteen nor more than forty days from the date of such Warrant.

Return day to be appointed in warrants of execution or of seizure.

XXIV. And be it enacted, that all oppositions allowed by a Commissioner, interventions, and *saisie arrêts* after judgment, shall be heard and decided summarily before the said Commissioners' Courts, in the same manner as the causes in which they shall arise, or to which they shall relate.

Oppositions, interventions, &c., how to be decided.

XXV. And be it enacted, that the Commissioners by whom such Courts shall be held, shall have such and the like powers and authority to preserve order in the said Courts during the holding thereof, and by the like ways and means, as now by law are or may be exercised and used in the like cases and for the like purposes, by any Courts of Law in this Province, or by the Judges thereof, respectively, during the sittings thereof.

Commissioners' Courts to have powers for preserving order.

XXVI. Provided always, and be it enacted, that in all cases where any resistance shall be offered to the execution of any summons, warrant of execution, or any other process, issued out of any Commissioners' Court, under the authority of this Act, the Court is hereby empowered to enforce the due execution of the same, by the means provided by the laws of Lower Canada for enforcing the execution of the process of other Courts in like cases.

And for enforcing execution of process.

XXVII. And be it enacted, that a Clerk shall be appointed for each Commissioners' Court under this Act, and the appointment shall be vested in the Commissioner, or in the majority of the Commissioners where there are more than two

Clerks to be appointed for each Court, and by whom.

Proviso.

two Commissioners, and where there are two Commissioners and no more, the appointment of such Clerk shall be vested in the Commissioner whose name shall be first upon the list: Provided always, that any Clerk who shall be appointed under this Act, shall be removable by the Commissioner, or by the Commissioners, or by a majority of them, and another Clerk may be appointed in his stead in the manner hereinbefore provided; and provided also, that such Clerk may, with the permission of the Commissioners or of a majority of them, appoint a Deputy, for whose acts he shall be responsible, and whom he may remove at pleasure.

Proviso.

No more than one Clerk to be appointed for any one Court.

XXVIII. And be it enacted, that no more than one Clerk shall be employed or in any way act as Clerk of the Commissioners' Court in any one Parish, Township, or extra-Parochial place, although two or more Commissioners may have been appointed in such place.

Property qualification required in any person appointed as Clerk—unless he shall give security.

XXIX. And be it enacted, that no person shall be appointed Clerk of any Commissioners' Court, who shall not have to and for his own use and benefit, and in his actual possession, a freehold estate, either in fee, *en roture*, or in free and common soccage, in absolute property, or by *emphytéose*, originally created for a term of at least twenty-one years, or by *usufruit* for his life, in lands, tenements, or other immoveable property, lying and being within the limits of the County, in which he is to act, of the yearly value of twelve pounds currency, over and above what will satisfy and discharge all incumbrances affecting the same, and over and above all rents and charges payable out of the same; unless such person shall give good and sufficient security, before one of the Commissioners entitled to sit in the Court, for the due performance of his duties, to the amount of fifty pounds currency, in which case he may act as a Clerk in the same manner as if he were qualified by property in the manner hereinbefore mentioned: Provided also, that no person who shall not have reached the legal age of majority, nor any Bailiff, Serjeant of Militia, or person keeping a house of Public Entertainment or Tavern-Keeper, or vending spirituous or fermented liquors to be drunk in his house, or on his premises, shall be appointed as Clerk, and no Justice of the Peace, nor any person being the father, son, brother, brother-in-law, son-in-law, or nephew, or the clerk or agent of any one of the Commissioners, in his private concerns, shall be or act as Clerk of the Court in which such Commissioner shall be entitled to sit.

Certain persons not to be Clerks.

Clerk to keep a Register: its contents.

XXX. And be it enacted, that for each Commissioners' Court, there shall be kept by the Clerk a register of all suits which shall be instituted before such Court, and of all proceedings had and all judgments rendered therein, and of every matter and thing concerning the same, which register shall contain a succinct statement of the names, additions, and residence of the parties, the nature of the demand, and the defence set up, and shall specify what papers (if any) were

were produced as evidence in the cause, and the date of such papers, and when any notarial instrument shall so be produced, shall state the names of the Notaries before whom such instrument shall have been executed ; and the Clerk shall give a copy of such entries to any person demanding the same ; and for every such copy, there shall be allowed to the Clerk, at the rate of six pence currency, for every hundred words : under a penalty of ten pounds currency, on any Clerk who shall refuse or neglect to give a copy thereof, to be recovered by the party to whom such copy shall have been refused.

Copies to be given at a certain rate.

XXXI. And be it enacted, that the register of the Commissioners' Court for any Parish, Township, or extra-Parochial place, shall continue to be the register of the Commissioners' Court for the same place, notwithstanding any change in the persons who shall for the time being be Commissioners or Clerk, but whenever there shall cease to be a Commissioners' Court in such place, then the person in whose hands the register shall then be, shall forthwith deposit the same and all papers belonging to the Court, in the office of the Prothonotary of the Court of King's (or Queen's) Bench for the District in which the Court shall have been held, and this under a penalty of twenty-five pounds, currency : Provided always, that the Clerk of any Commissioners' Court who shall cease to perform the duties of his office, (or in case of death, his heirs or legal representatives) shall, under the same penalty, forthwith deliver the register and papers in his or their possession to the Commissioner or Commissioners, or to the person appointed to be Clerk of the said Court.

Register to continue to be that of the Court, notwithstanding change of Commissioners or Clerk.

Proviso.

XXXII. Provided always, and be it enacted, that no Bailiff or Sergeant of Militia shall, in any case, act as Attorney before any Commissioners' Court, nor shall any other than an Attorney or Barrister, duly commissioned to practise the Law in Lower Canada, so act without a power of Attorney in writing, except in presence of the party and at his request ; and any person not duly commissioned to practise the Law as aforesaid, who shall act or practise before any Commissioners' Court as Attorney of the parties, Plaintiff or Defendant, shall be bound to do so *gratis*, without demanding or receiving any fee, perquisite or remuneration whatsoever ; and any person acting or practising as Attorney of any party, before the said Commissioners or any of them, without being duly commissioned to practise the Law as aforesaid, who shall directly or indirectly receive, in consideration of such services, any fee, emolument, or remuneration whatsoever, shall be held to have obtained the same under false pretences with intent to defraud the party from whom he shall have received it, and shall be liable to punishment accordingly, and shall for ever after be incapable of acting as Attorney before any Commissioners' Court : Provided also, that no Clerk of any such Court shall act as Attorney or *Porteur de Pièces* in any case whatsoever : And provided further

Who may act as an Attorney before a Commissioners' Court.

Persons not commissioned to practise the Law must act *gratis*.

Penalty.

Proviso.

Proviso.

further, that no Bailiff or other person who shall have served or executed any summons or process in any suit, shall be a competent witness in such suit on behalf of the party by whom such summons or process shall have been sued out, except only with regard to the service or execution of the same.

Who may
serve process
of a Commis-
sioners' Court.

XXXIII. And be it enacted, that no summons, order or other process issued under this Act, shall be served or executed, except by a Bailiff or a Sergeant of Militia, nor by any Bailiff or Sergeant of Militia not residing in the Parish, Township, or extra-Parochial place wherein the Defendant or witness may respectively reside, unless he shall renounce all claim to any greater sum for travelling expenses than that to which a person being resident therein would be entitled, except where there shall be no Bailiff nor Sergeant of Militia residing in the Parish, Township, or extra-Parochial place, wherein any such process is to be served, qualified or willing to make a return in writing, in which case such process may be served or executed by a Bailiff or Sergeant of Militia residing out of such place, and he shall be allowed his travelling expenses from the residence of the Bailiff or Sergeant of Militia residing nearest to the place where the service is to be made, or the Commissioner may in such case specially address such process to any other person by name, resident in the Parish, Township, or place where the service is to be made, who shall make oath to the due service and execution thereof: Provided always, that no warrant of execution or process authorizing the seizure of any property whatever shall be addressed to any person other than a Bailiff.

What mileage
may be allow-
ed.

Proviso.

Fees allowed
on certain pro-
ceedings.

XXXIV. And whereas, it is right to fix the costs in such causes as shall be determined under this Act in any Commissioners' Court; Be it therefore enacted, that it shall be lawful for the Clerk of any Commissioners' Court, to demand and receive for every summons which he shall make and deliver to any Suitor by order of the Court or of any Commissioner entitled to sit therein, one shilling and six pence currency; for every copy of a summons, six pence currency; for every *subpœna*, nine pence currency; for every copy of a *subpœna*, six pence currency; for every judgment and copy thereof, one shilling and three pence currency; for every warrant of execution or seizure, one shilling and three pence currency; for every copy thereof, six pence currency; for entering every opposition allowed by a Commissioner, six pence currency; and that the Bailiff or Sergeant of Militia may demand and receive for every service of process and certificate thereof, the sum of one shilling currency, and at the rate of four pence currency, per mile, for the distance he shall have gone to perform such service, the distance in returning not entitling him to any allowance: Provided always, that the Bailiff or Sergeant of Militia, by whom any service shall be made as aforesaid, upon one and the same Defendant, shall not be entitled to travelling expenses, on
more

Proviso—As
to mileage.

more than one journey though he may have more than one summons or process to serve: And provided also, that if any Plaintiff who, having given more than one summons or process to one Bailiff or Sergeant of Militia to be by him served, shall compound with him for a less sum than that to which he would be entitled, or if any Bailiff or Sergeant of Militia shall consent to any such composition, and such Plaintiff, or such Bailiff or Sergeant of Militia shall afterwards receive from any person or persons, under colour of receiving the costs on the service of such summons or process, a greater sum than that so compounded for, he shall be deemed to have obtained the same under false pretences with intent to defraud the party from whom he shall have received it, and shall be liable to punishment accordingly.

Penalty, for compounding for a less sum, and afterwards exacting a greater as mileage.

XXXV. Provided always, and be it enacted, that when the sum or the value of the thing for which judgment shall be rendered in any Commissioners' Court shall not exceed ten shillings, currency, the costs and expenses (exclusive of travelling expenses and of arbitration) which shall be adjudged against the Defendant, may be reduced and restrained by order of the Court to the principal sum or the value of the thing for which judgment shall be given, in case it shall appear just to the Court to make such order; any thing herein contained to the contrary notwithstanding.

Costs in cases where the judgment is for no more than ten shillings.

XXXVI. And be it enacted, that no Commissioner shall be entitled to, or receive any recompense or remuneration whatever, for any thing by him done under this Act.

Commissioners to act gratis.

XXXVII. Provided always, and be it enacted, that every Commissioner (except the Circuit Judges aforesaid, whose oath of office as such shall be held to extend to their duties under this Act) before proceeding to exercise his functions as such, shall take and subscribe an oath before some Justice of the Peace, well and duly, to the best of his judgment and capacity, to perform the duty of Commissioner as required by this Act, of which oath such Justice of the Peace shall give a copy and certificate to the Commissioner having taken it, who shall cause the same to be annexed to the register of the Court in which he shall sit; and the Clerk of any such Court shall in like manner, before entering upon the duties of his office, make oath before a Commissioner entitled to sit therein, faithfully and impartially to execute, to the best of his ability, the duties of his office according to the provisions of this Act; and such oath shall be entered upon the register aforesaid.

Commissioners and Clerks to take an oath of office.

XXXVIII. And be it enacted, that any Commissioner or any Clerk, who in the execution of the trust reposed in him shall misdemean himself, or deliver to any

Penalty on Commissioners or Clerks

guilty of mis-
conduct as
such.

any Bailiff or Sergeant of Militia or other person, any process to be by him or them distributed, sold, or otherwise illegally disposed of, shall, for each such offence, incur a penalty of ten pounds, currency, and shall be thenceforth disabled from acting as Commissioner or Clerk as aforesaid.

Penalties :—
how recovered
and appropri-
ated.

XXXIX. And be it enacted, that all pecuniary penalties hereby imposed or incurred for offences committed against this Act, may be sued for and recovered before any Court having civil jurisdiction to the amount of the fine or penalty, in the District in which the offence shall have been committed ; and one moiety of such penalties shall go to the person suing for the same, and the other moiety shall be paid into the hands of the Receiver General, and shall form part of the Consolidated Revenue Fund of this Province.

False swearing
to be perjury.

XL. And be it enacted, that any wilful false swearing or false affirmation in any case in which an oath or affirmation is authorized by this Act, shall be held to be wilful and corrupt perjury, and punishable accordingly.

Each Commis-
sioner to re-
ceive a copy of
this Act.

XLI. And be it enacted, that each Commissioner appointed under this Act, shall be entitled to receive a printed copy thereof, in the French and English languages, to be transmitted to him, in the manner by law provided for the distribution of the printed Acts of the Legislature.

Interpretation
clause.

XLII. And be it enacted, that the words " Governor of this Province," wherever they occur in the foregoing enactments, shall be understood as meaning and comprehending the Governor, or the person authorized to execute the Commission of Governor within this Province for the time being; that the words " Lower Canada," wherever they occur in the said enactments, shall be understood as meaning and comprehending that part of this Province which formerly constituted the Province of Lower Canada ; and that any word or words importing the singular number or the masculine gender only, shall be understood to include several matters of the same kind as well as one matter, and several persons as well as one person, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

SCHEDULE No. 1.

FORM OF SUMMONS.

Province of Canada, }
District of }

In the Commissioner's Court for the Parish (Township, or extra-Parochial Place, *as the case may be*) of

To A. B. of (*A. B's residence,*) in the said District, Carpenter, (*or as the case may be,*) Greeting :—

You are hereby commanded to pay to C. D. of (*C. D's residence,*) Grocer, (*or as the case may be,*) the sum of _____ Currency,
which he demands of you as being due to him for (*state briefly the cause of action,*)
and remaining unpaid, with his costs; or to appear before this Court, at the
house of _____ in the said Parish (*or as the case may be,*) of
at _____ o'clock in the _____ noon, of _____ the _____ day of
next, (*or instant,*) to answer the demand of the said C. D.,
otherwise judgment may be given against you by default.

Given under my Hand and Seal, this _____ day of _____
in the year of our Lord 18 _____

E. F., Commissioner.

{ L. S. }

SCHEDULE No. 2.

FORM OF SUBPÆNA.

Province of Canada, }
District of }

In the Commissioner's Court for the Township (*or, as the case may be,*) of

To _____ Greeting :—

You are hereby commanded, that laying aside all business and excuses, you
(and each of you) be and appear in your proper person before this Court, at the
_____ house

house of _____ in the said Parish (*or as the case may be,*) of
 on the _____ day of _____ at _____
 o'clock in the _____ noon, then and there to testify whatever you or either of
 you may know, in a cause between _____ Plaintiff, and
 _____ Defendant, pending before this Court. (*If the*
Witness be required to bring with him any paper, or thing, mention it.) And this
 you or either of you shall by no means omit, under the penalties of the law.

Given under my Hand and Seal, this

day of

18

E. F., Commissioner.

{ L. S. }

SCHEDULE No. 3.

FORM OF A WARRANT OF EXECUTION TO LEVY A SUM OF MONEY.

Province of Canada, }
 District of _____ }

In the Commissioner's Court for the Parish (*or, as the case may be,*) of _____

To any Bailiff in the said District of _____

Greeting :—

Whereas, A. B. of _____ (*A. B's residence, and profession, trade*
or calling,) did on the _____ day of _____ before this
 Court, recover Judgment against C. D. of _____ (*C. D's*
residence, and profession, trade or calling,) for the sum of _____
 for his debt, and

for his costs, of which execution remains to be done: you are therefore hereby
 commanded to levy, of the goods and chattels and effects of the said C. D.,—
 except his beasts of the plough, his implements of husbandry, and the tools of
 his trade, unless the other goods and chattels shall prove insufficient, and excepting
 always the bed and bedding, and the necessary wearing apparel of himself and
 his family, and also one cow, three sheep, one hog, a single stove, and one cord of
 firewood,

firewood, to be selected by him out of any larger number he may have,—(if the seizure be in satisfaction of a debt contracted for any cow, sheep, hog, stove, or firewood, it will be seizable, and must be left out of the list of articles exempt from seizure,) the aforesaid sum and costs, together with
 for the costs of this execution, returning to the said C. D. the overplus, if any there be, after having satisfied the aforesaid sums; and you are further commanded to make return of this Warrant, with your doings thereon before this Court, at the _____ house of _____ in
 the said Parish (or as the case may be,) of _____ on or before the
 day of _____ next (or instant).

Given under my Hand and Seal, this _____ day of _____
 in the year of our Lord 18 _____

E. F., Commissioner.

{ L. S. }

SCHEDULE No. 4.

FORM OF A WARRANT OF SIMPLE *SAISIE EN MAIN TIERCE*.

Province of Canada, }
 District of }

In the Commissioner's Court for the Parish (or, as the case may be,) of _____

To any Bailiff of the said District of _____

Greeting :—

At the instance of A. B. of _____ (A. B.'s residence
 and profession, trade or calling,) you are hereby commanded for assuring the
 payment of the sum of _____ pounds due him by C. D.,
 of _____ C. D.'s residence and profession, trade or calling,) _____
 under Judgment of this Court, (state briefly the subject and date of the judgment,) _____
 to

to seize and attach in the hands of E. F., of
(E. F.'s residence and profession, trade or calling,) all sums and things generally whatsoever, which he owes or shall owe on any account whatsoever, or shall have in his hands belonging to the said C. D., strictly prohibiting him from parting with the same, on pain of paying the same twice, and of being personally liable for the sum so due to the said A. B. as aforesaid.

And you are further commanded to summon the said C. D. and E. F. to appear before this Court, at the _____ house of _____ in the said Parish, *(or as the case may be)* of _____, on the _____ day of _____ next, *(or instant,)* at _____ o'clock in the _____ noon, the said C. D. to show cause why this attachment *(saisie arrêt)* should not be declared good and valid, and the said E. F. to make his declaration under this warrant; notifying them that otherwise order may be made in the matter by default; and have you then and there this warrant, with your doings thereon.

Given under my Hand and Seal, this _____ day of _____ 184

G. H., Commissioner.

{ L. S. }

SCHEDULE No. 5.

FORM OF A WARRANT OF *SAISIE GAGERIE*.

Province of Canada, }
 District of }

In the Commissioner's Court for the Township *(or as the case may be)* of _____

To any Bailiff in the said District of _____

Greeting:—

At the instance of A. B. of _____ you are hereby commanded to
 distrain, by *Saisie Gagerie*, all the goods and chattels belonging to C. D.,
 of _____

of (C. D.'s residence, and profession, trade or calling,) and being in the house by him occupied, (or the produce and effects in the barns and other buildings occupied by the said C. D.) for the surety and payment of the sum of due by the said C. D. to the said A. B. for the rent of the said premises, held by him of the said A. B.

And you are further commanded to summon the said C. D. to appear before this Court, at the house of , in the said Township (or as the case may be) of at of the clock in the noon, on the day of instant, (or next,) to answer the demand of the said A. B., and to show cause why the said *Saisie Gagerie* should not be declared good and valid ; notifying the said C. D. that if he fail so to appear, either in person or by his Attorney, judgment may be given against him by default ;—and have you then and there this warrant with your doings thereon.

Given under my Hand and Seal, this day of , in the year of Our Lord 18

E. F., Commissioner.

{ L. S. }

SCHEDULE No. 6.

FORM OF A WARRANT OF *SAISIE REVENDICATION*.

Province of Canada, }
District of }

In the Commissioner's Court for the Township (or as the case may be) of

To any Bailiff in the said District of

Greeting :—

At the instance of A. B., of (A. B.'s residence and profession, trade or calling,) you are hereby commanded to seize a certain cart painted red, (or as the case may be) to be further described and pointed out to you by the

the said A. B., and which he claims as being his property, unjustly detained from him by C. D., of (C. D.'s residence and profession, trade or calling,) and safely to keep the said cart, so as to have the same forthcoming to abide the judgment to be given in the case.

And you are further commanded to summon the said C. D. to appear before this Court, at the house of in the said Township (or as the case may be) of at o'clock in the noon, on the day of instant, (or next,) to answer the demand of the said A. B., and to show cause why the said seizure should not be declared good and valid, and the said cart to be the property of the said A. B.; notifying the said C. D. that if he fail so to appear, either in person or by his Attorney, judgment may be given against him by default; and have you then and there this warrant, with your doings thereon.

Given under my Hand and Seal, this day of , in the year of Our Lord 18

E. F., Commissioner.

{ L. S. }

CAP XX.

An Act to alter the Terms of the General Sessions of the Peace, in and for the District of Saint Francis.

[9th December, 1843.]

Preamble.

Act of L. C. 3
Geo. 4. c. 17,
cited.

WHEREAS, by the Provincial Statute of Lower Canada, passed in the third year of the Reign of His late Majesty, King George the Fourth, and intituled, *An Act to erect certain Townships therein mentioned, into an Inferior District, to be called the Inferior District of Saint Francis, and to establish Courts of Judicature therein*, and since continued, amended and made permanent by other Legislative enactments, it is among other things provided that there shall be held at Sherbrooke, in and for the said Inferior District of Saint Francis (now the District of Saint Francis) twice in every year, a General Session of the Peace, the terms whereof shall be from the first to the seventh day (both days included and Sundays excepted) of each of the months of February and October: And whereas it is expedient to alter the periods of holding the said General Sessions of the Peace in and for the said District; Be it therefore enacted, by

by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that so much of the Provincial Statute of the late Province of Lower Canada, first above cited, as enacts that the Terms of the said Inferior District, now the District of Saint Francis, shall be from the first to the seventh day, both days included and Sundays excepted, of the months of February and October in every year, shall be, and the same is hereby repealed, from and after the twenty-first day of April, in the year one thousand eight hundred and forty-four.

A certain part
of the said Act
repealed.

II. And be it enacted, that from and after the day last aforesaid, the said Terms of the said General Sessions of the Peace, in and for the said District of Saint Francis, shall be from the first to the seventh day of March, and from the twenty-fourth to the thirtieth day of September in each year, both days inclusive, and Sundays and Holidays excepted.

At what time
the General
Sessions of the
Peace shall be
held in the said
District.

C A P. XXI.

An Act to alter and amend certain provisions of the Ordinance of the Governor and Council of Lower Canada, of the second year of Her Majesty's reign, intituled, *An Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal*.

[9th December, 1843.]

WHEREAS it is just and necessary to alter and amend certain parts of an Ordinance of the Governor and Special Council for the affairs of the late Province of Lower Canada, passed in the second year of Her Majesty's reign, intituled, *An Ordinance for establishing an effective system of Police in the Cities of Quebec and Montreal*; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this

Preamble.

Ordinance of
L. C. 2 V. (1)
c. 2, cited.

Part of the said Ordinance repealed, and other provisions substituted for those of the Ordinance.

A fine may be imposed.

Offender may be committed, if the fine be not paid.

this Act, it shall not be lawful for any Justice or Justices of the Peace to commit persons convicted under the said Ordinance, of being loose, idle, and disorderly, to the common Gaol or House of Correction, at hard labor, and that so much of the said Ordinance as confers any power of imprisonment on Justices of the Peace, of persons so convicted, shall be and the same is hereby repealed; Provided always, that it shall be lawful for any Justice or Justices of the Peace, to impose upon persons hereafter to be convicted under the said Ordinance, of being loose, idle, and disorderly, a pecuniary fine or penalty not exceeding five pounds sterling, to be levied by attachment of their several goods and chattels, and sale thereof, eight days after such attachment, and not by distress, if such persons so convicted shall be residents of the parish or place where such conviction shall be made; and in default of sufficient levy upon such goods and chattels, to cover such penalty and costs of seizure and sale, or if such persons so convicted shall not be residents or being residents shall have no goods and chattels by the sale whereof, the said penalty may be levied, and shall not, forthwith upon such conviction, pay such penalty, it shall be lawful for such Justice or Justices to commit such offenders so convicted, to the common Gaol or House of Correction, to be imprisoned for any period not exceeding two months, either at hard labor or otherwise, in the discretion of such Justice or Justices.

So much of the Ordinance as deprives parties of the benefit of Certioraris, &c., &c., in certain cases, repealed.

II. And be it enacted, that so much of the said Ordinance as deprives parties convicted, as aforesaid, of the benefit of Her Majesty's Writ of Certiorari, and also so much of the same as enacts that no conviction, order, warrant, commitment, or other matter, made or purporting to be made, under the said Ordinance, shall be quashed for want of form, or held void by reason of any defect therein, shall be and the same is hereby repealed.

Charge to be reduced to writing, in certain cases.

III. And be it enacted, that in all proceedings to be commenced against loose, idle, and disorderly persons, the charge shall be reduced to writing and shall be stated by the Justice or Justices of the Peace to the party or parties accused, who shall be held to plead forthwith to the same; and the said charge shall be summarily tried, due time being given to the party accused to procure the attendance of the necessary witnesses to establish his defence, if he shall so require.

Appeal granted to the Quarter Sessions in such cases.

IV. And be it enacted, that it shall be lawful for any person convicted under the said Ordinance to appeal from such conviction to the next ensuing General Quarter Sessions of the Peace, upon giving good and sufficient security to pay the penalty awarded against him and all costs of such Appeal; and the said Sessions of the Peace are hereby empowered to hear such Appeal and to dispose of the same, and award costs in manner and form as practised upon other Appeals.

V.

V. And be it enacted, that every commitment to Gaol or to the House of Correction, shall specify the particular fact or facts, as to time, place and circumstance, which constitute the offender as a loose, idle, and disorderly person; and any commitment which shall not specify such facts, shall be held to be insufficient, and the party imprisoned under color thereof shall be entitled to be discharged from imprisonment, upon application to that effect to any Judge or Justice of Her Majesty's Courts of King's Bench or Queen's Bench, or any other person authorized by law to act in the absence of such Judge or Justice.

The particular facts which constitute a person loose, idle or disorderly, to be stated in the Commitment.

In default, the party may be discharged.

C A P. XXII.

An Act to amend the Ordinance providing for the Registration of Titles to Real Property or Incumbrances thereon in Lower Canada; and further to extend the time allowed by the said Ordinance for the Registration of certain claims.

[9th December, 1843.]

WHEREAS it is expedient to increase the facilities for the Registering of certain Instruments relative to Real and Immoveable Estates in Lower Canada, by amending and repealing certain parts of the Ordinance of the Governor and Special Council of the late Province of Lower Canada, intituled, *An Ordinance to prescribe and regulate the Registering of Titles to Lands, Tenements and Hereditaments, Real or Immoveable Estates, and of charges and incumbrances on the same; and for the alteration and improvement of the Law in relation to the Alienation and Hypothecation of Real Estates, and the Rights and Interest acquired therein*; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the fifth section of the above in part recited Ordinance, and so much of the fifty-eighth section of the said Ordinance as substitutes the Districts to be constituted, by Proclamation, for the Judicial Districts mentioned in the said fifth section, shall be and the same is hereby repealed, from and after the first day of March, in the year one thousand eight hundred and forty four.

Preamble.

Ord. 4 V. c. 30, cited.

The fifth section and part of the fifty-eighth section of the said Ordinance repealed.

II. And be it enacted, that from and after the day last aforesaid, there shall be established in each and every County, in that part of this Province heretofore
Lower

Registry Offices established for the se-

veral Counties,
instead of the
present Municipal or Registration Districts.

Lower Canada, at such place as the Governor or person administering the Government of this Province shall appoint, a Public Office for the Registering of all deeds, wills, conveyances, notarial obligations, contracts and instruments in writing, and all other acts and writings whatsoever, affecting or relating to real or Immoveable Estates, described or alluded to in the first section of the above in part recited Ordinance, in any manner affecting lands, tenements and hereditaments, Real or Immoveable Estates situate, lying or being within such Counties, respectively; and it shall be lawful for the Governor of this Province, from time to time, and as occasion may require, to appoint a person of fit integrity and ability, to be Registrar of each and every of the said Counties, respectively, by whom the said office shall be kept, and the duties imposed by the said Ordinance as amended by this Act in respect of the same, shall be performed; and to remove any such Registrar and in case of vacancy of the said office by death, resignation or removal, to appoint another fit person to fill such vacancy.

Registers, &c.
of the former
County Registry
Offices to be
returned to the
Counties from
which they were
taken.

III. And be it enacted, that forthwith after the said first day of March in the year one thousand eight hundred and forty four, all and every the books, records, indexes, documents and papers appertaining to the County Registry Offices, established under and in pursuance of the several Acts of the late Province of Lower Canada, repealed by the said in part recited Ordinance, in the Counties of Drummond, Sherbrooke, Stanstead, Shefford and Missisquoi, and also in the Counties of the Two Mountains, Beauharnois, Ottawa, Megantic and Acadie, which were by the said Ordinance required to be transmitted to the Registry Offices constituted under the Provisions of the said Ordinance in the several Municipal or Registration Districts in which the Registry Offices for the said Counties respectively were situate, shall be returned into the Registry Offices hereinbefore authorized to be established in or for the respective Counties from whence they were removed or to which they relate, and shall make part of the Records of the Registry Offices into which they shall be so returned or removed; and the Registrars in whose custody they shall be, shall have the same powers and duties with regard to them, and may grant certificates concerning them or any thing in them contained, as the Registrar in whose custody they were before such removal, would have had or might have done if this Act had not been passed.

Other Registers, &c., to remain in the Offices where they now are; but transcripts of certain entries to be sent to the Counties to which they relate.

IV. And provided also, and be it enacted, that all the Memorials, Books, Records, Indexes, Documents, and papers made under the provisions of the said in part recited Ordinance, shall remain in and form part of the Records and papers of the Registry Office for the Counties within which the Registry Offices in which they now are shall have been respectively kept; and so soon as may be after the said first day of March one thousand eight hundred and forty four, there shall be transmitted by the Registrars in whose possession such Memorials, Books, Records

Indexes,

Indexes, Documents and papers, shall respectively be, copies certified by such Registrar of all such entries therein as relate to or in any manner affect lands, tenements, hereditaments, real or immoveable Estates or any charges or incumbrances on the same, to the Registry Office of the County within which the property to which the said entries respectively relate shall be situate; and for such certified copies the Registrar furnishing the same, shall receive from and out of the Consolidated Revenue Fund of this Province a sum equal to six pence currency, per hundred words contained in the said copies.

V. And be it enacted, that all and every the documents, instruments in writing, acts and things mentioned and designated in the first section of the above in part recited Ordinance, or required by the said Ordinance to be registered by Memorial or otherwise, as well those passed or executed before Notaries as those passed and executed before witnesses, and judgments, judicial acts and proceedings and other matters of record, may, from and after the passing of this Act, be registered at full length, by transcribing the same into the Registers or Books of Registration, in the several Registry Offices to be established under the provisions of this Act, subject nevertheless to all the other requirements of the above in part recited Ordinance, in so far as the same may not be inconsistent with this Act, and such Registration at full length shall have the same legal effect as a registration by Memorial, and the certificate signed and indorsed on any such document, instrument in writing, act or thing registered at full length, shall be taken and allowed as evidence of such Registry in all Courts of Justice whatsoever: Provided, that if such document, instrument in writing, act or thing to be registered at full length, shall have been passed or executed before Notaries, or shall be a judicial Act or proceeding or any matter of record, the production to the Registrar or his Deputy of the Notarial copy thereof, or of an authentic copy thereof duly attested and certified by the proper officer, by the person presenting the same for Registration, shall be sufficient to authorize and oblige such Registrar or Deputy Registrar to register the same, without any requisition in writing from or by either or any of the parties to the document, instrument in writing, act or thing to be registered.

All documents whether passed before Notaries or before witnesses may be validly registered by transcription at full length.

Proviso.

VI. And be it enacted, that the Registration at full length of any document, instrument in writing, Act or thing shall avail to preserve the rights of all parties interested therein, as effectually as if it had been registered at the instance of such parties respectively.

Registration at full length of any document to avail in preserving rights of parties.

VII. And be it enacted, that whenever the Registration shall be made by memorial in the manner prescribed by the said Ordinance, the certificate of the Registrar shall contain a copy of such memorial, or shall be indorsed upon a copy thereof.

When Registration is made by memorial, the certificate of Registrar to contain a copy thereof, or indorsed thereon.

VIII.

Partial discharges of incumbrances to be entered on margin of Register.

Such discharge to be entered on production of certificate or copy of Notarial Act, &c.

Party discharged may demand such certificate or Notarial copy from Incumbrancer, or have action for the same.

Judgment to declare discharge.

No registration of title subsequent to the title of party in possession, to affect such title, even if not registered.

The 16th clause of the Ordinance explained.

From what time hypothec arising from registration of certain claims shall date.

Time for saving certain hypothecs extended in certain cases.

A more inexpensive form of creating hy-

VIII. And be it enacted, that an entry of the partial discharge of any incumbrance upon any Land or Real Property may be validly made by the Registrar in the margin of the Register, in the manner provided with regard to the total discharge of any such incumbrance ; and such entry of discharge, whether total or partial, shall be made by the Registrar either on the production to and deposit with him of a certificate attested in the manner prescribed by the said Ordinance, or on the production to and deposit with him of an authentic copy of any Notarial Act, judgment, or other matter of record proving the total or partial discharge of such incumbrance ; and any person and party having discharged or partly discharged any such incumbrance, may demand from the Incumbrancer such a certificate or Notarial Act proving such discharge or partial discharge as can be validly registered, and shall have an action for the same if refused, and for all damages arising from such refusal ; and by the judgment in such action the total or partial discharge of the incumbrance may be declared.

IX. And be it enacted, that no registration of a title to any Land or Real Property subsequent to the title of any person or party in open and public possession thereof as proprietor, shall affect the title of such person or party to the same, although it be not registered at the time of the registration of such subsequent title.

X. And be it enacted, that the sixteenth section of the said Ordinance shall be construed as saving the right of the Creditor not only to the interest and arrears for two years, but also to the interest and arrears for the then current year, reckoning from the date of the document under which the same may arise ; and that the hypothec arising from the registration of any claim to interest or arrears not preserved by the original registration, shall date only from the registration of such claim, and that such claim for interest or arrears may be registered without its being attested upon oath, when the claim is founded upon any authentic deed or document ; and that the interest and arrears mentioned in the said Ordinance shall not be understood to include alimentary pensions, life rents, rent due for any property leased, interest on the price of any real property sold for a sum payable at any fixed term or terms, arrears on any real property sold for an irredeemable ground-rent, or for a perpetual but redeemable rent commonly called a *rente constituée* ; and the registration made or to be made of the creditors' title in any of the cases aforesaid shall have the effect of saving his hypothec or privilege for five years' interest or arrears, and those for the then current year, reckoning from the date of the said title.

XI. And whereas it is expedient to provide greater facility than now exists for securing the payment of monies upon real Estate held in free and common Soc-

cage

cage in any part of Lower Canada, or within the Counties of Missisquoi, Shefford, Stanstead, Sherbrooke and Drummond, by the said tenure or by any other tenure, by a short and inexpensive and legal form of hypothecation; Be it therefore enacted, that from and after the passing of this Act, a simple act of acknowledgment of indebtedness, executed and delivered before two witnesses, whereby the intention to hypothecate shall be manifest, shall be deemed to be a good and valid hypothecation of the lands or tenements, or real or immoveable estate or property therein described, of which the party hypothecating is at the time of the execution thereof, lawfully and by right seized as of his own property; and the said hypothecation so as aforesaid executed, shall to all intents and purposes give the party, in whose favor it shall be made, the like claim and privilege in and upon the real estate therein described, as if the same had been executed before Notaries according to the customary laws of Lower Canada, any law, usage, or custom, to the contrary, in any wise notwithstanding: And provided also, that the said hypothecation may be made in the following or any like words having the same import, "I, R. M. of hereby acknowledge myself to be justly and truly indebted to R. J. of, in the lawful sum of currency, payable (*here describe the terms of payment,*) and for the better securing the payment of the same, I do hereby hypothecate all that piece, parcel or lot of Land lying and being in the (*here describe the property,*) together with all and every, the houses, buildings and appurtenances thereon, or thereunto belonging, (*as the case may be,*) unto the said R. J., his heirs and assigns. In testimony whereof I have hereunto set my hand and seal, at the of on the day of in the year

pothecations established for certain Counties, and for lands held in free and common socage in Lower Canada.

" Signed, Sealed and Delivered in the presence of

C. D.
G. H.

A. B. { L. S. }

XII. And be it enacted, that the period limited by the fourth section of the said in part recited Ordinance, for the registering of Memorials of the instruments, documents and claims therein mentioned, and subsequently extended by an Act of the Parliament of this Province, until the thirty-first day of December, in the year of our Lord one thousand eight hundred and forty-three, shall be and is hereby extended until the first day of November, in the year of our Lord one thousand eight hundred and forty-four, until and upon which day all such instruments, documents and claims may be registered by memorial, or at full length, with the same effect as if they had been registered within twelve calendar months from

The period allowed for registering certain instruments under the fourth section of the said Ordinance further extended.

from and after the day on which the said Ordinance came into force and effect, any thing in the said Ordinance to the contrary notwithstanding: Provided always, that any such instrument, document or claim, which shall not be registered in the manner required by the said Ordinance, or by this Act, upon or before the said first day of November, in the year one thousand eight hundred and forty-four, shall from and after the said day be inoperative, void and of no effect whatever against any subsequent *bonâ fide* purchaser, grantee, mortgagee, hypothecary, or privileged creditor, or incumbrancer for or upon valuable consideration, whose claim shall have been registered before the registration of such instrument, document or claim as first aforesaid.

Registrar to
give public no-
tice of the pre-
ceding clause.

XIII. And be it enacted, that it shall be the duty of the Registrar of each County to cause the next preceding section of this Act to be read publicly at and posted on the Church door of each Parish in such County, in both languages, on the three Sundays next before the said first day of November, one thousand eight hundred and forty-four: Provided always, that any omission to give such notice as aforesaid on the part of such Registrar, shall not in any way invalidate any of the enactments of this Act, or of the said in part recited Ordinance.

C A P XXIII.

An Act to detach Isle Bizarre from the Registration District of the Lake of the Two Mountains, and to annex it to the Island and County of Montreal, for the purposes of Registration.

[9th December, 1843.]

Preamble.

Act of L. C.
9 Geo. 4. c. 73,
cited.

WHEREAS the Island called Isle Bizarre, in the County of the Two Mountains, is now for all the purposes of the Ordinance of the Governor and Special Council for the affairs of the late Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to prescribe and regulate the registering of Titles to Lands, Tenements and Hereditaments, Real or Immoveable Estates, and of charges and incumbrances on the same; and for the alteration and improvement of the Law in relation to the alienation and hypothecation of Real Estates, and the rights and interest acquired therein*, within the Registration District of the Lake of the Two Mountains, and it is expedient that the said Island should hereafter, for the purposes of the said Ordinance, be within the Registration District of Montreal; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Coun-
cil

cil and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said Isle Bizarre shall, from and after the first day of January one thousand eight hundred and forty four, for all the purposes of the said Ordinance, form part of the Registration District of Montreal, as if it were part of the Island and of the County of Montreal, and Deeds, Instruments in writing or other documents relating to or affecting real or immoveable property within the said Isle Bizarre, and required to be registered under the said Ordinance, shall and may, from and after the said day, be registered at the Registry Office, in the City of Montreal; any thing in the said Ordinance, or in any Proclamation issued under the provisions thereof, to the contrary notwithstanding.

The Isle Bizarre detached from the County of the Two Mountains and annexed to the County of Montreal.

CAP XXIV.

An Act for taking the Census of the Inhabitants of Lower Canada, and for obtaining certain statistical information therein mentioned.

[9th December, 1843.]

WHEREAS the Census of the Inhabitants of Lower Canada, for the year one thousand eight hundred and forty-two, as required by an Act of this Legislature passed in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to repeal certain parts of an Act therein mentioned, and to provide for taking a periodical Census of the Inhabitants of this Province, and for obtaining the other statistical information therein mentioned*, hath not been duly taken, nor the other statistical information thereby also, required, duly obtained; and whereas it is of the greatest importance that such Census should be taken, and such statistical information obtained as early as possible; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act, it shall be lawful for the Governor of this Province, with the consent and advice of the Executive Council thereof, to nominate and appoint one or more competent persons, residing within each of the Counties of Lower Canada, to be Commissioners for the execution of this Act.

Preamble.

Chap. 42.

Blank re-
turns and
copies of this
Act to be fur-
nished to them,
&c.

Returns to
be certified un-
der Oath.

Assistants to
Commissioners
may be ap-
pointed.

Persons re-
fusing to give
information
fined.

Returns to
be made by As-
sistant within
fifty days.

II. And be it enacted, that the Commissioners so appointed, and each of them, shall be furnished without delay, by the Provincial Secretary for Lower Canada, with a sufficient number of Copies of this Act, and of the Schedule A thereunto annexed, and shall before the first day of the month of May next, in the year one thousand eight hundred and forty four, make or cause to be made an exact Census of the population of the Counties in Lower Canada, or Places therein, for which they shall be respectively appointed, and shall obtain the information requisite to fill up correctly the several columns in their returns, which shall be made in the form of the Schedule A., hereunto annexed, and sworn to before one of Her Majesty's Justices of the Peace for the District, City or Town corporate in which such Census shall be taken in the form annexed to the above mentioned Schedule A., by the said Commissioners, respectively, or the persons employed by them for the said service, as hereinafter provided.

III. And be it enacted, that it shall be lawful for each and every Commissioner so appointed, for the purposes of this Act, to require the assistance of and to employ any professional man Officer of Militia, Church Warden, or any other competent person whatsoever, within the County or Place for which such Commissioner shall have been appointed, and it shall be lawful for such Commissioner and the Persons by him employed for that purpose, to visit every house within such County or Place, and to require of all persons, (those in actual service in Her Majesty's Army or Navy alone excepted) such information as may be necessary for filling up accurately the several columns in his Returns, according to the said Schedule.

IV. And be it enacted, that any person being above the age of twenty-one years, who shall refuse to give to any such Commissioner or to any person employed for the purposes of this Act by such Commissioner, the assistance so required, or the information so demanded by them or by any of them, or shall wilfully give false information to such Commissioner, or to such person concerning the same, shall, for every such offence forfeit and pay a penalty of two pounds ten shillings, currency, to be sued for and recovered in a summary manner, on the oath of at least one credible witness other than the informer before any one of the nearest Justices of the Peace, and to be levied by distress and sale of the offender's goods, under a warrant signed by the Justice before whom the offender shall have been convicted; and one half of the said penalty shall belong to Her Majesty, Her Heirs and Successors, and the other half to the person who shall have sued for the same.

V. And be it enacted, that every person so appointed by such Commissioners, respectively, shall, within fifty days next ensuing the date of his appointment, make his return certified under oath as aforesaid, in the form of the said Schedule

A.,

A., for the place for which he shall have been appointed to act, to the Commissioners by whom he shall have been so appointed.

VI. And be it enacted, that the said Secretary shall, with the shortest delay possible after the reception by the Executive Government of the Return so ordered to be made by this Act, transmit certified Copies of the Return for each County to be deposited with every Rector or Curate or Minister, and with the Municipal Clerk of each Parish, Extra-parochial place, or Township comprised within the limits of such County, or if there be no such Rector, Curate, or Minister or Municipal Clerk, then with the Senior Militia Officer therein, to be by him, them and their successors in office, respectively, kept for the use and inspection of all persons concerned.

Copies of returns to be deposited in the hands of certain persons.

VII. And be it enacted, that on or before the first day of June next, the said Commissioners shall transmit under their signature and in triplicate, and in the form of the said Schedule, the returns to be made by them under this Act, to the Governor of this Province, and one copy of every such Return shall be laid before each of the Branches of the Legislature within fifteen days after the opening of the then next Session, and the remaining copy shall be deposited in the Archives of this Province.

Returns to be transmitted by Commissioners within a certain period.

VIII. And be it enacted, that the said Commissioners shall, respectively, on the receipt of their Returns as aforesaid, receive out of any unappropriated monies in the hands of the Receiver General, by warrant under the hand of the Governor, as a remuneration for their respective services, the following sums, that is to say : for every inhabited house mentioned in the return, and situate in the Cities of Quebec and Montreal, or in the Towns of Three Rivers and Sherbrooke, or in any Village containing upwards of thirty houses, five pence currency ; for every such house in the Country Parishes or Townships, ten pence currency ; and the said Commissioners shall pay out of the monies so received to any person who shall have assisted personally in making the Returns for any Parish, Extra-parochial place, or Township, Ward or division of a City or Town, one third of the sum so received for every house mentioned in such return, and to any person who shall, unassisted by any Commissioner, have made and certified the returns of any Parish, Extra-parochial place, or Township, Ward or division of a Town or City, two thirds of the sum so received for every inhabited house mentioned in such return : Provided always, that any such person employed by any Commissioner, for the purposes of this Act, shall have been furnished by such Commissioner, with a copy of this Act, and of the Schedules A. and B., hereunto annexed, and with a certificate in the form of the Schedule C., hereunto annexed, distinctly describing the limits of the place for which he is to make such return, unassisted by such Commissioner.

Commissioners how to be paid.

Assistants how to be paid.

Penalty for
false Returns
and negli-
gence.

IX. And be it enacted, that any Commissioner appointed under this Act, or any person employed by such Commissioner for the purposes of this Act, who shall be convicted upon Indictment before any Court of Quarter Sessions of having wilfully neglected to make any Return by this Act required, or of having made negligently or wilfully a false Return, shall be liable to pay a fine to Her Majesty, Her Heirs and Successors, not exceeding twenty-five pounds, currency, and shall forfeit any remuneration to which he might otherwise have been entitled under this Act, and shall be further liable to imprisonment in the Common Gaol or Prison of the District in which the said Census ought to have been taken, or in which the same shall be so falsely taken, for a space of time not exceeding three Calendar months; and if the person incurring such penalty be a Commissioner appointed under this Act, it shall then be lawful for the Governor of this Province to appoint another Commissioner in his stead and place, and such other Commissioner shall forthwith proceed to make a true Return, according to the Provisions of this Act.

Notice to be
given.

X. And be it enacted, that the Commissioners appointed under this Act, shall, fifteen days at least before they proceed to take the Census and to procure the statistical information hereby required, cause a notice in the form of the Schedule B. hereunto annexed, in the English and French languages, to be publicly read immediately after Divine Service in the forenoon, on two successive Sundays, at the Church door of the Parish or other place in which such Census is to be taken, and to be posted thereon during the said time, and in case there shall be no Church therein, then the said Commissioners shall post such written notice at the most public place in such Parish or other place.

Accounta-
bility.

XI. And be it enacted, that the due application of the monies hereby appropriated shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct; and that an account of the expenditure of the said monies shall be laid before the Provincial Legislature, within the first fifteen days of the then next Session thereof.

Interpreta-
tion clause.

XII. And be it enacted, that the words "Governor of this Province" wherever they occur in the foregoing enactments, are to be understood as meaning and comprehending the Governor, or the person authorized to execute the Commission of Governor within this Province, for the time being; and that the words "Lower Canada," wherever they occur in the said enactments, are to be understood as meaning and comprehending that part of this Province of Canada which formerly constituted the Province of Lower Canada.

SCHEDULE

SCHEDULE (A.)

RETURN of the enumeration of the Inhabitants of _____ with the
 other statistical information to be obtained in such
 under an Act, intituled, *An Act for taking the Census of the Inhabitants of
 Lower-Canada, and for obtaining certain statistical information therein men-
 tioned.*

Total.				
	Houses inhabited.	Houses with their local situation in any Range, Concession, Street, &c.		
	Houses Vacant.			
	Houses Building.			
	Name of the head of each family.			
	Proprietor of Real Property.			
	Not Proprietor of Real Property.			
	Tenant entitled to vote at any Election in City, Town, &c.			
	Trade or Profession.			
	Total number of Inmates in each family, Male and Female, now resident.			
	Number of persons belonging to the family, Male or Female, now temporarily absent.			
	Number of natives of England belonging to each family,			
	do.	of Ireland,	do.	
	do.	of Scotland,	do.	
	do.	of Canada,	do. of French origin.	
	do.	of Canada,	do. of British origin.	
	do.	of the Continent of Europe, or otherwise specifying the same separately.		
	do.	of the United States of America.		
	Number of years each person has been in the Province, when not Natives thereof			
	Number of Aliens not naturalized.			
	Male.	One year of age and under.		Number of persons in each family.
	Female.			
	Male.	One year and under two.		
	Female.			
	Male.	Two years and under three.		
	Female.			
	Male.	Three years and under four.		
	Female.			
	Male.	Four years and under five.		
	Female.			
	Male.	Five years and under ten.		
	Female.			
	Male.	Ten years and under fifteen.		
	Female.			

SCHEDULE

SCHEDULE A.

RETURN of the enumeration of the Inhabitants of, &c.—*Continued.*

Total.		Number of Persons in each Family.											
	Single.	Male.	Fifteen years and under twenty one,										
	Married.												
	Single.	Female.											
	Married.												
	Single.	Male.	Twenty one years and under thirty years.										
	Married.												
	Single.	Female.											
	Married.												
	Single.	Male.	Thirty years and under forty years.										
	Married.												
	Single.	Female.											
	Married.												
	Single.	Male.	Forty years and under fifty years.										
	Married.												
	Single.	Female.											
	Married.												

SCHEDULE

SCHEDULE (A.)

RETURN of the enumeration of the inhabitants of, &c.—*Continued.*

Total,					Number of Persons in each Family.
	Single.	Male.	Fifty years and under sixty years.		
	Married.				
	Single.	Female.			
	Married.				
	Single.	Male.	Sixty years and upwards.		
	Married.				
	Single.	Female.			
	Married.				
	Males.	Number of Deaf and Dumb persons in each family and the occupation for which they show the greatest aptitude.			
	Females.				
	Males.	Number of blind persons in each family.			
	Females.				
	Males.	Number of Idiots in each family.			
	Females.				
	Males.	Number of Lunatic persons in each family.			
	Females.				
	Number of persons in each family belonging to the Church of England.				
	Do.	do.	Church of Scotland.		
	Do.	do.	Church of Rome.		
	Number of British Wesleyan Methodists in each family.				
	Number of Canadian Wesleyan Methodists in each family.				
	Number of Episcopal Methodists in each family.				
	Number of other Methodists in each family.				
	Number of Presbyterians not in connexion with the Church of Scotland in each family.				
	Number of Congregationalists or Independents in each family.				
	Number of Baptists and Anabaptists in each family.				
	Number of Lutherans in each family.				

-SCHEDULE

SCHEDULE (A).

RETURN of the enumeration of the inhabitants of, &c.—*Continued.*

Total.	
	Number of Quakers in each family.
	Number of Moravians and Tunkers in each family.
	Number of the Dutch Reformed Church in each family.
	Number of Jews in each family.
	Number of persons of all other Religious Denominations not herein enumerated in each family.
	Number of Male coloured persons in each family.
	Number of Female coloured persons in each family.
	Number of Male Farm Servants employed in each family.
	Number of other Male Servants in private families.
	Number of other Female Servants in private families.
	Number of persons engaged in Trade or Commerce.
	Number of persons in each family subsisting on alms or paupers.
	Number of acres or <i>arpents</i> of land occupied by each family.
	Number of acres or <i>arpents</i> of improved land occupied by each family.
	Wheat.
	Barley.
	Rye.
	Oats.
	Pease.
	Indian Corn.
	Buck Wheat.
	Potatoes.
	Number of Hives of Bees kept by each family last season.
	Number of pounds of Maple Sugar made by each family last season.
	Neat Cattle.
	Horses.
	Sheep.
	Hogs.
	Number of yards of Fulled Cloth manufactured in the domestic way in the same family.
	Number of yards of Linen, Cotton or other thin Cloth manufactured in the domestic way in the same family.
	Number of yards of Flannel or other Woollen Cloth, not fulled, manufactured in the domestic way in the same family.
	Number of pounds of Wool produced during the last year in each family.
	Under what tenure such land is held by each family.
	Rate of Seigniorial Rent paid for land held <i>à titre de cens</i> .
	Average money rent of farm farmed by each family.
	Proportion of produce allowed to the Proprietor for land held on lease or cultivated on shares by each family.
	Number of Colleges, Academies and Convents in each Parish, Township, extra-parochial place, Ward or division of Town, &c.
	Number of Elementary Schools in every such place.

Produce raised by each family during the last year and estimated in Winchester bushels.

Live stock owned by each family.

SCHEDULE

SCHEDULE (A.)

RETURN of the enumeration of the inhabitants of, &c.—*Continued.*

Total		
	Male.	Number of Scholars at each such College, Academy, Convent or Elementary School.
	Female.	
	Number of Taverns or Houses of Public Entertainment in every such place.	
	Number of Stores where Spirituous Liquors are sold in every such place.	
	Number of Grist Mills in every such place.	
	Number of pairs of Mill-Stones used in each Mill.	
	Number of Oatmeal Mills in every such place.	
	Number of Barley Mills in every such place.	
	Do. Saw Mills	do.
	Do. Oil Mills	do.
	Do. Fulling Mills	do.
	Do. Carding Mills	do.
	Do. Threshing Mills	do.
	Do. Paper Mills	do.
	Do. Iron Works	do.
	Do. Trip Hammers	do.
	Do. Nail Factories	do.
	The weight of Nails so manufactured in such place.	
	Number of Distilleries in every such place.	
	Number of Breweries in every such place.	
	Number of Tanneries in every such place.	
	Number of Pot and Pearl Ash Manufactories in every such place.	
	Number of Manufactories of any other sort in every such place containing any Machinery moved by Wind, Water, Steam or Animal power, specifying the purposes to which such Machinery is applied, and by what power it is moved.	
	Average price of Wheat in every such place since last harvest.	
	Average price of Agricultural Labour per day throughout the year.	

I, A. B., do swear that the above Return is true and correct to the best of my knowledge and belief, that I have not wilfully made any false Statement therein, and that I have used my best diligence, and endeavour to obtain true information on all matters to which it relates,—So HELP ME GOD.

(Signature) A. B. Commissioner or Assistant Commissioner for the
of .

Sworn before me, one of Her Majesty's Justices of the Peace, for the
of at this day of 18 .

(Signature) C. D., J. P.

SCHEDULE

B B

SCHEDULE (B.)

FORM OF NOTICE.

Public Notice is hereby given, that the undersigned, duly authorized to that effect, under an Act passed by the Provincial Legislature, in the seventh year of Her Majesty's Reign, intituled, (*insert the Title of this Act*) will on the _____ day of _____ proceed to take the Census of the population of the (*insert the name of the place within which the party giving notice is authorized to act*) and to require within the said place the information necessary to enable him (*or them*) to fill up the Schedules hereunto annexed, according to the provisions and requirements of the said Act, and all persons are hereby required to govern themselves accordingly, under the penalties by the said Act imposed.

Dated at this day of (Signature.)

SCHEDULE (C.)

Form of Certificate to be given by the Commissioners, to the persons by them employed to make the return of any particular place within the Counties for which such Commissioners shall have been respectively appointed :

Know all men whom it may concern, that I (*or we*) have appointed (*insert name, quality and place of residence*), being Militia Officer or Church-warden or professional man (*as the case may be*) within the limits described, to make the Return for the (*describe the place, its limits and boundaries,*) conformably to the provisions of an Act passed in the seventh year of Her Majesty's Reign, intituled, (*insert the Title of this Act*) of which Act and the Schedules thereunto annexed, I (*or we*) have furnished him with copies for the information and guidance of all whom the same may concern.

Dated at this day of 184 .

[Signature of the Commissioner.]

CAP. XXV.

An Act to regulate the Inspection and Measurement of Timber, Masts, Spars, Deals, Staves, and other articles of a like nature.

[9th December, 1843]

WHEREAS it is expedient and necessary that Legislative provision should be made for regulating the Measurement and Culling of Timber, Masts, Spars, Deals, Staves, and other articles of a like nature, intended for shipment and exportation from this Province, and other matters relative to the same, and the Act hereinafter mentioned has been found insufficient for attaining the objects for which it was passed ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the commencement of this Act, the Act of the Legislature of this Province, passed in the sixth year of Her Majesty's Reign, and intituled, *An Act to regulate the Inspection and Measurement of Timber, Masts, Spars, Deals, Staves, and other articles of a like nature, intended for shipment and exportation from this Province, and for other purposes relative to the same*, shall be and it is hereby repealed.

Preamble.

II. And be it enacted, that it shall be lawful for the Governor, Lieutenant Governor, or the Person administering the Government of this Province for the time being, to constitute and appoint during pleasure, a fit and proper person, well skilled and practically acquainted with the Timber Trade of this Province, to be the Supervisor of Cullers, whose duty it shall be to manage, supervise and control the culling, measuring and examination of every description of Lumber in the manner hereinafter prescribed, and who shall himself, with two responsible sureties, enter into bonds to Her Majesty, Her Heirs and Successors, in the penal sum of one thousand pounds, currency, each, for the faithful discharge of his duty, (which bonds shall enure to the benefit of all parties who may be damnified by the misfeasance, malfeasance or non-feasance of the said Supervisor of Cullers, and all parties damnified shall be entitled to recover from the said Supervisor and his sureties before any Court of competent jurisdiction, upon such bond, by suit or action to the amount to which he may have been so damnified,) and shall before entering upon the duties of his office, take and subscribe the following oath before any of Her Majesty's Justices of the King's Bench, for the District of Quebec, that

Supervisor of
Cullers to be
appointed.

Supervisor to
give security.

And to take an
oath of office.

The oath.

that is to say :—" I, A. B. do solemnly swear that I will faithfully, truly and
 " impartially, to the best of my skill and understanding, execute, do and perform
 " the office and duty of Supervisor of Cullers, according to the true intent and
 " meaning of the Act, intituled, *An Act to regulate the Inspection and Measurement*
 " *of Timber, Masts, Spars, Deals, Staves, and other articles of a like nature*, that I
 " will not either directly or indirectly, personally, or by means of any other person
 " or persons on my behalf, receive any fee, reward, or gratuity whatever by reason
 " of any function of my office as Supervisor, except such as are allowed to me
 " by the said Act ; and that I will not directly nor indirectly be a dealer in or
 " interested in the buying or selling of any article of Lumber, either on my own
 " account or on account of any other person or persons whomsoever ; and that
 " I will act without partiality, favor or affection, and to the best of my knowledge :
 " So help me God : " which oath and bond shall be filed and kept among the
 records of the office of the Registrar of this Province.

Oath to be
 filed of record.

The Quebec
 Board of Trade
 to appoint a
 Board of Exa-
 miners of Cul-
 lers.

Duties of
 such Board.

Members to
 be sworn.

The oath.

III. And be it enacted, that it shall be the duty of the Council of the Quebec
 Board of Trade to constitute and appoint in that City, at least seven and not
 more than eleven persons to be a Board of Examiners, to examine and test the
 skill and qualification of all applicants to be admitted and licensed as Cullers, and
 from time to time to fill any vacancies which may occur in the said Board by
 death, resignation or permanent removal from the said City ; and the Supervisor
 shall be *ex officio* a member of the said Board and the Chairman thereof ; and such
 Board, shall meet from time to time as circumstances may require, when notified
 by the Supervisor so to do, at the office of the Board of Trade or of the Supervisor,
 to test the skill, capacity and qualifications of such applicants, and shall also meet
 at the office of the Supervisor or at the Board of Trade Room, or such other
 place as they may appoint on the first Monday of January, May and August in
 each year, to examine and test the skill, capacity and qualification of all such ap-
 plicants as aforesaid ; and any majority of the Members of the Board for the time
 being shall be a *Quorum* for holding any meeting of the Board, and the decision
 of any majority of the Members present at any such meeting shall be held to be
 the decision of the Board ;—and each member of the said Board before acting as
 such, shall take the following oath, (to be administered by a Justice of the Peace
 resident in the City of Quebec,) that is to say :—" I, A, B. do solemnly swear
 " that I will not directly or indirectly, personally or by means of any other person
 " or persons on my behalf, receive any fee, reward or gratuity whatever, by rea-
 " son of any function of my office as an Examiner of Cullers, and that I will act
 " without partiality, favor or affection, and to the best of my knowledge : So
 " help me God."

Who may be
 appointed Cul-
 lers.

IV. And be it enacted, that no person shall be recommended by such Board of
 Examiners, to be licensed as a Culler, unless he is in every way capable, as to
 knowledge

knowledge, education, age and character, and practically acquainted with the department or departments of Culling and Measuring for which he applies to be licensed.

V. And be it enacted, that the duties of inspection and measurement shall be divided into four different departments, that is to say:—One department for the inspection and measurement of Square Timber; one department for the inspection and measurement of Masts, Spars, Bowsprits, Oars and Handspikes; one department for the inspection and measurement of Staves; and one department for the inspection and measurement of Deals, Boards, Planks and Lathwood.

Culling to be divided into four departments.

VI. And be it enacted, that it shall and may be lawful for the Governor, Lieutenant Governor or Person Administering the Government, to grant licenses (to be issued by the Supervisor) to all duly qualified applicants as Cullers, for one or more of the departments aforesaid: Provided always, that each such applicant shall produce a certificate of his fitness and qualification from the Board of Examiners, which shall be filed in the Supervisor's Office: And provided also, that such applicant shall, himself with two sufficient sureties, enter into a bond to Her Majesty, Her Heirs and Successors, in the penal sum of one hundred pounds, currency, each, for the faithful discharge of his duties, and such bond shall enure to the benefit of all parties who may be damnified by the misfeasance, malfeasance or non-feasance of the said Culler, and all parties damnified shall be entitled to recover from the said Culler and his sureties, before any Court of competent jurisdiction, upon such bond by suit or action, to the amount to which they may have been so damnified, which bond shall be taken before the Supervisor, and the Culler shall also, before one of the Justices of any Court of King's Bench, or other Superior Court of Civil Jurisdiction, take and subscribe the following oath, that is to say:—"I, A. B. do solemnly swear that I will faithfully, truly and impartially to the best of my knowledge and understanding, execute, do and perform the duty of a Culler of (*here insert the description of the Lumber of which he is to be a Culler,*) according to the true intent and meaning of an Act, intituled, *An Act to regulate the Inspection and Measurement of Timber, Masts, Spars, Deals, Staves and other articles of a like nature*, and that I will give a true and faithful account and certificate of the number, quality and dimensions or measurement of the lumber of which I am to be licensed a Culler, which may be submitted to my judgment and inspection, according to the best of my knowledge; and that I will not directly or indirectly be a dealer in or interested in the buying or selling of any article of lumber, either on my own account or on account of any other person or persons whatsoever; and that I will not at any time purloin or wilfully change or omit any article of lumber submitted to me for the purpose of being measured, counted or culled: So help me God."—which oath every such person

Cullers may be licensed by the Governor

Proviso, as to their qualification.

Proviso. They shall give security.

And be sworn.

Their oath.

Oath to be
filed in the
Office of the
Supervisor.

son shall file or cause to be filed in the office of the Supervisor, and it shall be the duty of the Supervisor, when any applicant to be a Culler shall have complied with the requirements of this Act, to report and certify the same to the Governor or his Secretary, and to procure for such applicant, his license, without any fee to the Supervisor, and subject only to the payment of such fees of office as are usual and reasonable for such documents.

Supervisor's
Office, how to
be kept.

VII. And be it enacted, that it shall be the duty of the said Supervisor of Cullers, to open an office in a central and convenient place, at the Port of Quebec, for the transaction of his official business, which Office shall be kept open by him or his deputy, on all lawful days, from six o'clock in the forenoon to six o'clock in the afternoon, during the open season of navigation, and at other times during ordinary office hours; and the said Supervisor shall employ such number of Cullers as may be necessary to do the work required in the different departments of culling and measuring; and the duty of such Cullers in each department shall be performed by them in rotation, and the Supervisor shall have authority to dictate the number of men required to be employed under the direction of the Cullers, for the expeditious culling of Timber, Deals, Staves, or other description of Lumber, so as to avoid unnecessary delay.

Authority of
the Supervisor.

VIII. And be it enacted, that the holders of Measuring Tapes, and Scribes of Timber, shall in all cases when practicable, be Apprentices or Candidates for becoming Cullers.

How specifications of Lumber culled and measured shall be made.

IX. And be it enacted, that it shall be the duty of every Culler, to check and examine the entry of his measurements and counting, on the books of the Supervisor, and to sign a copied specification thereof, such specification having been checked and examined in the office of the Supervisor, and being countersigned by him or his deputy; and such specification shall be furnished to the owner of the property, or person entitled to the same, as soon as practicable after the measuring or culling of any Lumber is completed, if called for; it shall also be the duty of all Cullers to obey the lawful commands of the Supervisor, and they shall respectively hold themselves in readiness, on all lawful days, to execute the duties of their office from daylight until dark; and for every neglect, refusal or delay, when not otherwise employed about the duties of his office, the Culler so refusing, neglecting or delaying, shall forfeit and pay the sum of twenty pounds currency, to the use of the person or persons injured by such neglect, refusal or delay; and any Culler guilty of impropriety of conduct or disobedience of orders, may be suspended from office by the Supervisor, subject to an appeal to the Board of Examiners.

X.

X. And be it enacted, that it shall be the duty of the Supervisor to record the several requisitions for measuring or culling each description of Lumber; and that the culling or measuring of the same shall be performed in the order of such requisitions, and the Supervisor shall when required, within twelve business hours after such requisition, send a Culler to do the measuring, culling or counting so required, in any place within the Harbour of Quebec, provided the said Supervisor has, at the time required, Cullers unemployed or obtainable.

Cullers to be employed in rotation.

Proviso.

XI. And be it enacted, that it shall be the duty of every Culler to provide himself with a measuring rod and tape, which shall in all cases be English Measure, and tested and compared by a standard kept in the office of the Supervisor, (such rod having a hook at the end five eighths of an inch long,) and also with a scribing-knife to mark in legible characters, the length, breadth and thickness of all square timber measured and inspected by him, together with the mark, initials or number of the party if required; and it shall also be the duty of every Culler to provide himself with a proper stamp, with the initials of his name in legible characters, and with the additional capital letters M. U. and R., wherewith to indent or stamp on the end of each piece of Timber, Mast, Spar, Deal, Stave, Oar and Handspike, the quality thereof, if requested by the Seller or Buyer so to do; the letter M. shall be used to indicate and denote what is Merchantable; the letter U. to indicate and denote what is sound and of good quality, but under merchantable size; and the letter R. to indicate and denote what is rejected and unmerchantable.

How Lumber shall be measured and marked.

The marks.

XII. And be it enacted, that in all cases the Supervisor and Cullers, respectively, shall be governed by the following descriptions, rules, standards and limitations, in ascertaining and certifying the merchantable quality of Lumber submitted to their inspection, that is to say: Square White Oak Timber shall not be less than twenty feet in length, and not less than ten inches in the middle, and the taper shall not be more than one inch in any length under thirty feet, nor more than two inches for any greater length, and the Timber shall be free from rot, rings, shakes and other defects, and properly hewn, squared and butted, and shall not have more than one bend or twist in any log, which bend or twist shall not be more than two and a half inches hollow for every twenty feet in length: Square Rock or Hard Grey Elm, shall not be less than thirty feet in length, nor less than ten inches in the middle, and the taper shall not be more than one inch in any length under thirty feet, nor more than two inches for any greater length: and the Timber shall be free from rot, rings, shakes and other defects, and shall be properly hewn, squared and butted, and shall not have more than one bend or twist in a log, which bend or twist shall not be more than three inches hollow for every thirty feet in length, and so in proportion for any greater length: Square White

Description and classes of Lumber.

Square Oak.

Square Elm.

Square Pine,
White or Yellow.

White or Yellow Pine Timber, shall not be less than twenty feet in length, and not less than twelve inches square in the middle, unless it be sixteen inches in the middle, in which case it shall be received if not less than fifteen feet in length, and the taper shall not be more than one inch in any length under twenty feet, and so in proportion for any greater length, and the Timber shall be free from rot, bad knots, rings, shakes and other defects, and properly hewn, squared and butted, and shall not have more than one bend or twist in a log, which bend or twist shall not be more than two inches hollow, for every twenty feet in length, and so in proportion for any greater length: Square Red Pine Timber, shall not be less than ten inches square in the middle, nor less than twenty five feet in length, unless it be twelve inches square, in which case it shall be received if not less than twenty feet in length, and the taper shall not be more than two inches in any length under twenty five feet, and so in proportion for any greater length, and the Timber shall be free from rot, bad knots, shakes and other defects, and properly hewn, squared and butted, and shall not have more than one bend or twist in a log, which bend or twist shall not be more than three inches hollow, for every twenty five feet in length: Ash, Basswood and Butternut, shall be of the same standard, quality and dimensions, as White Pine: Birch, if twelve inches square, may be received if it be not less than six feet in length and have not more than two inches wane on any part, and in other respects the standard shall be the same as for Square White Pine: Pine or Fir Boards shall not be less than ten feet in length, and not less than one inch in thickness, and not less than eight inches in breadth, equally broad from end to end, edged with a saw, or neatly trimmed by a straight line, and shall be free from rot, bad knots, rents and shakes, and of equal thickness on both edges from end to end, but the colour alone of any plank or board shall not be a sufficient cause for its rejection, if it be in other respects sound and merchantable, and of the dimensions required by this Act: Pine or Fir Deals shall not be less than twelve feet long, seven inches wide and two and a half inches thick, (the proportion of seven inch deals shall not exceed one sixteenth part of the whole,) and shall be free from rot, rotten knots, black knots and case knots, splits and shakes, and shall be well sawn and squared at the end with a saw, but the colour alone shall be no objection to their being deemed of merchantable quality; and it shall be lawful for the Culler, to divide Deals, Plank and Boards, into merchantable, second and third qualities, and Culls: The Quebec standard hundred of Deals, shall be one hundred pieces, twelve feet long, eleven inches broad, and two and a half inches thick: Deal ends shall not be less than six feet long, and shall be computed according to the Quebec Standard: Standard or Measurement Staves, shall be of the dimensions set forth in the words and figures following, that is to say:

Square Red
Pine.

Ash, Bass-
wood, &c.

Pine or Fir
Boards.

Pine or Fir
Deals.

Quebec
Standard, of

Standard
Staves.

5½	feet	long,	5	inches	broad,	and	from	1	to	3	inches	thick,
4½	do.	do.	4½	do.	do.		do.					
3½	do.	do.	4	do.	do.		do.					
2½	do.	do.	5	do.	do.		do.					

and the Standard Mille shall be one thousand pieces, five and a half feet long, five inches broad, and two inches thick : West India or Punchcon Staves shall be three and a half feet long, four inches broad, and three-fourths of an inch thick, and the Standard Mille shall be one thousand two hundred pieces of these dimensions : Barrel Staves shall be two feet eight inches long, three and a half inches broad, and three-fourths of an inch thick, and the Standard Mille shall be one thousand two hundred pieces of these dimensions : all Staves shall be straight grained timber properly split, with straight edges, free from worm holes, knots, veins, shakes or splinters, and four-fifths, at least, of the whole quantity of any number of Standard Staves contracted for shall be five and a half feet long, and not more than one-third of the remaining fifth shall be as short as two and a half feet in length ; and the Culler shall always measure the length, breadth and thickness of Staves at the shortest, narrowest and thinnest parts : Masts shall be three feet in length for every inch in diameter at the partners, adding six feet of extreme length for all Masts of twenty-two inches and under that size : Red Pine Spars shall be three feet in length for every inch in diameter at the partners, adding nine feet of extreme length ; and Masts and Red Pine Spars shall not have more than four inches hollow, and shall be sound and free from bad knots, rents and shakes : Bowsprits shall be two feet in length for every inch in diameter at the partners, adding two feet for extreme length, and shall be sound and free from defects, with not more than two inches hollow : Hickory Handspikes shall be six feet long and three and a half inches square at the smaller end : Ash Oars shall be three inches square on the loiu, and five inches broad on the blade, the blade shall be one-third of the length of the Oar, and such Oars shall be cleft straight on all sides, and free from rot, large knots, splits and shakes : Lathwood shall be cut in lengths of from three to six feet, and measured by the cord of eight feet in length by four feet in height.

Standard
Mille.
Punchcon
Staves.

Barrel Staves.

Masts.

Red Pine
Spars.

Bowsprits.

Handspikes.

Ash Oars.

Lathwood.

XIII. And be it enacted, that in all cases where it shall appear that Timber, Masts, Spars, Boards, Planks, Deals, Staves, Oars, and any other description of Lumber, are not properly squared, butted or edged, but are merchantable in other respects and sold as such, it shall be the duty of the Supervisor and Culler, respectively, and they are hereby severally authorized and required to order or cause the same to be properly dressed and chopped at the expence of the seller, previously to their being respectively received and certified to be merchantable ; and in measuring off squared timber in the raft or otherwise, it shall be the duty of the Culler to take the square at such part of the piece, and in such manner as

Lumber im-
properly squar-
ed, &c., to be
redressed.

Mode of mea-
suring in cer-
tain cases.

in

in his opinion shall give the truest medium and full cubic contents thereof, without reference to what it may contain or measure when re-dressed and made merchantable: Provided always, that such piece of timber or part thereof so measured off, be visibly sound and of use.

Proviso.

Where there is no agreement, Timber shall be measured without deduction.

XIV. And be it enacted, that unless there be a specific agreement to the contrary, Timber shall be measured off without any allowance or deduction, and that a certain portion of the said Timber, that is to say, not exceeding ten per cent. thereof, to be selected by the buyer and seller, shall be afterwards broken up and made sound, and that a reduction on the residue of the said Timber shall be made in proportion to the loss ascertained in that portion broken up and made sound, and the expense of making it sound shall be paid by the Seller; a copy of every agreement as to the mode of measurement upon the sale of any description of Lumber mentioned in this Act, signed by the seller and buyer, shall be lodged in the Office of the Supervisor of Cullers at the same time that a requisition is made to the said Supervisor for a Culler to measure or cull any of the said Lumber, for the guidance of the Supervisor and Culler in the performance of their duty: Provided always, that it shall be competent for the owner of a raft to cause it to be measured before any sale, in which case the specification of such raft shall set forth the mode in which the measurement shall have been performed.

Proviso.

Fees for Culling.

Culling boards.

XV. And be it enacted, that the rates hereinafter set forth in words and figures, shall be charged and collected by the Supervisor, as the Fees and charges for culling and measuring each description of Lumber, and such Fees and charges shall include all charges and expenses against such Lumber, except in cases where extra labour for dressing, butting, chopping and piling is necessary and required, that is to say:—For culling Pine or Fir Boards, not more than one and a half inch thick, and more than eleven feet long, two shillings and six pence currency, for every hundred pieces thereof: for Pine or Fir Planks, one and a half and two inches thick, and not more than eleven feet long, two shillings and six pence currency, for every hundred pieces thereof: for Pine or Fir Boards of any greater length than eleven feet, and not exceeding one and a half inch thick, two shillings and six pence currency, for every hundred pieces thereof: for Pine or Fir Plank, of any greater length than eleven feet, and not exceeding two inches in thickness, two shillings and six pence currency, for every hundred pieces thereof:

For measuring off Timber.

Table of Fees for measuring.

	s.	d.	
White Pine, Bass, or Butternut,.....	0	3	per ton.
Red Pine,.....	0	4	do.
Hardwood,.....	0	4	do.

For

For Culling and Measuring.

	s.	d.		
White Pine Timber,.....	0	6	per ton.	For Culling
Red Pine do.,	0	7	do.	and measur
Hardwood do.,	0	8	do.	ing.
Deals, per Standard hundred,.....	3	0		
Standard Staves, per Mille,.....	15	0		
West India do. do.	7	6		
Barrel do. do.	5	0		
Oars and Handspikes, per hundred pieces,.....	3	0		
Spars, from 15 to 20 inches, each,.....	2	0		
Masts and Bowsprits, from 19 to 24 inches each,.....	3	0		
Do. do. 24 inches and upwards, each,....	4	0		
Lathwood, per Cord,.....	1	6		

and such rates for culling and measuring shall in all cases be paid to the Supervisor on the delivery of the specification, or on the presentation of an account thereof, and one half of such rates shall be paid by the buyer, and the other half by the seller.

Fees, by
whom paid.

XVI. And be it enacted, that it shall and may be lawful for the Supervisor of Cullers to procure an office, the necessary office furniture, books, stationary and other indispensable requisites, all of which, and every record and voucher appertaining to his office shall be the property of Her Majesty for the public uses of the Province; and also to employ such number of Clerks as may be required to perform the duties of his office; and all such charges and expenses together with Cullers' Fees, shall be paid out of the amount of Fees collected by him, at the rates aforesaid: Provided always, that such charges, expenses and services shall be made, done, performed and procured by him at their lowest current value; and it shall also be the duty of the Supervisor of Cullers, on or before the first day of January, in each and every year, under oath, (to be administered by any of Her Majesty's Justices of the Peace,) to render in duplicate, to the Governor, and for the use of the Legislature, a correct and detailed statement of his receipts and disbursements during the year then last past: together with an inventory of such articles of public property as he shall then have in his possession; and an abstract of the number of pieces, and number of cubic feet of each description of Lumber measured under his superintendence, and the sections of the Province wherefrom such Lumber respectively came; and all the transactions of his office shall be traced, set forth and kept in detail in a regular and proper set of Books adapted thereto, which Books shall belong to Her Majesty, for the public uses of the Province.

Expenses of
Supervisor's
Office, how
paid.

Proviso.

Accounts to
be attested on
oath, yearly,—
and certain
statements
transmitted to
the Governor.

XVII.

Supervisor's
Book to be o-
pen to inspec-
tion.

XVII. And be it enacted, that the measurement Books and other public documents in the Office of the Supervisor, shall be open to the perusal of the seller and buyer of Lumber, with reference to any transaction between them, and to the perusal of any other party interested therein.

Supervisor's
Salary.

XVIII. And be it enacted, that it shall and may be lawful for the Supervisor of Cullers to receive and take out of the funds coming into his hands, the sum of three hundred pounds, currency, as an annual salary for his services, exclusive of all the expenses of his office; and it shall also be his duty to report to the President of the Quebec Board of Trade, on or before the first day of January, in each and every year, the surplus or deficiency of funds which shall be after the payment and discharge of his said salary and the expenses of his office, and such surplus (if any) shall be disposed of and applied as may hereafter be found necessary and expedient, exclusively for the purposes of this Act, under the control of and as directed by the Governor in Council.

Supervisor to
report to the
Chairman of
the Board of
Trade.

Extra fund,
how disposed
of.

Portion of the
Fees which
shall belong to
the Cullers.

XIX. And be it enacted, that Cullers employed by the Supervisor shall, in consideration of their labour and services, receive from the Supervisor the following proportion of the fees charged and collected by the Supervisor, that is to say:— For the Culling and Measuring of Timber, Deals, Staves and other Lumber, two-thirds of the amount of the fees established by this Act; and for measuring off every description of Timber, or other description of Lumber, one half of the amount of fees established by this Act: Provided always, that the Cullers shall pay their attendants or assistants, out of the share of the said fees hereby assigned to them.

Proviso.

The Governor
in Council
may increase or
diminish the
fees.

XX. And be it enacted, that it shall and may be lawful for the Governor in Council, from time to time, to raise or lower the tariff of fees and charges for culling and measuring established by this Act, in such manner as to meet and defray, as nearly as possible, the expenses of the Supervisor's office, and to provide for the sufficient payment of the Cullers, and also to apportion, and divide such fees between the Cullers in the different departments, respectively, and the expense of the Supervisor's establishment, in such manner as to the Governor in Council shall seem equitable and just; any thing in this Act to the contrary notwithstanding.

Licensed Cul-
lers not engag-
ed by the Su-
pervisor may be
hired by Mer-
chants.

On certain
conditions.

XXI. And be it enacted, that any Culler licensed under this Act, and not employed by the Supervisor, may engage or hire to merchants or others as a Shipping Culler, but such Culler shall in no case measure, count, stamp or mark any description of Lumber before the same shall have been first measured by some licensed Culler, other than himself, under the direction of the Supervisor, except by the written permission of the Supervisor, and in accordance

accordance with the same rules and on the same terms by which Cullers acting under the Supervisor are bound, according to this Act; and also, on condition of keeping a record of all his operations, returns of which shall be made monthly to the Supervisor; and any Culler, so hired or engaged, offending against the provisions of this Act, shall, on being duly convicted thereof, before any Court having competent jurisdiction, forfeit and pay a sum not exceeding ten pounds, currency, or be imprisoned for six calendar months, in the discretion of the Court, for each such offence; and any person not licensed as a Culler, who shall measure, mark or stamp any article of Lumber, the same being shipped or intended to be shipped by such measurement, or measured, marked or stamped with intent to evade or elude the provisions of this Act, shall, on being duly convicted thereof, before any Court having competent jurisdiction, forfeit and pay a sum not exceeding ten pounds, currency, or be imprisoned for a term not exceeding six calendar months, in the discretion of the Court, for each such offence: and any Culler employed by the Supervisor, who shall privily and without the knowledge and consent of the Supervisor, or for any hire or gain, and without the same being duly entered on the Books of the Supervisor, measure, mark or stamp any article of Lumber, shall, on being duly convicted thereof, before any Court of competent jurisdiction, forfeit and pay a sum not exceeding ten pounds currency, or be imprisoned for a term not more than six calendar months in the discretion of the Court, for each such offence.

Penalties for
contravening
this Act.

XXII. And be it enacted, that if any dispute shall arise between the buyer or seller, and the Culler employed to cull or measure any article of Lumber, with regard to the dimensions or quality thereof, it shall be the duty of the Supervisor (upon a written complaint thereof being made, demanding a survey, and before the situation or position of the Timber or Raft shall be altered,) as soon as possible, to cause a Board of Survey to be held for examining the quality and dimensions of the same and reporting thereon; and such Board of Survey shall consist of three Cullers, one to be appointed by the Culler whose decision is disputed, one by the party complaining, and one by the Supervisor, and their determination shall be final and conclusive; and if the opinion and act of the Culler be confirmed, the reasonable cost and charges of re-examination shall be paid by the party complaining, but if otherwise by the Culler.

Disputes be-
tween Cullers.
and parties in-
terested, how
settled.

XXIII. And be it enacted, that nothing in this Act shall be construed to make it compulsory on the parties interested to cause any Lumber to be culled, but if to be culled in order to determine the respective rights of any parties, it shall be culled in the manner prescribed by this Act, under the superintendence and control of the Supervisor of Cullers, nor shall any thing herein contained be construed to make it compulsory on any party interested, to cause any lumber shipped for exportation by Sea from the Port of Montreal to be measured or counted,
but

What Lum-
ber must be
culled or mea-
sured before it
can be shipped
for exportation
by Sea.

but if it be measured or counted in order to determine the respective rights of any parties, it shall be measured or counted in the manner provided by this Act : Provided always that no lumber (except deals, planks and boards exported by the manufacturer thereof) arriving at the Port of Quebec after the first day of January one thousand eight hundred and forty four, shall be shipped for exportation by Sea from any place within the said Port above the Eastern end of the Island of Orleans, without its being first measured or counted in the manner prescribed by this Act, under the superintendence and control of the said Supervisor, under a penalty equal to double the market value, of each article of Lumber so illegally shipped, and such penalty shall be recoverable from the shipper of such timber : Provided always, that no Lumber arriving at any of the shipping Ports of this Province after the first day of January, one thousand eight hundred and forty four, shall be shipped for exportation by Sea, from any part of the Port of Quebec within the limits aforesaid, without its being first measured in the manner required by this Act, under the superintendence or control of the said Supervisor, under a penalty equal to double the market value of each article of lumber so illegally shipped; and such penalty shall be recoverable from the owner or shipper, or from the master of the vessel on board which such lumber shall have been illegally shipped, in which latter case it shall, if not forthwith paid, be levied, as well upon the furniture, tackle and apparel of the Ship, as upon the goods and chattels, or other property of such master.

Penalty.

How recovered.

Cullers not to deal in Lumber.

Penalty.

XXIV. And be it enacted, that it shall not be lawful for the Supervisor, or for any Culler, to buy or sell directly or indirectly, or be a dealer in or interested in buying or selling any article of Lumber, either on his own account, or on account of any other person whomsoever, under a penalty for each and every offence not exceeding one hundred pounds, currency, nor less than fifty pounds, currency, and the forfeiture of his office.

Penalty on Supervisor or Culler guilty of partiality, &c.

XXV. And be it enacted, that if the Supervisor of Cullers, or any licensed Culler, or any Clerk or Assistant Measurer, employed by the Supervisor or by any Culler, shall at any time be found guilty of wilful neglect of his duty, or of partiality in the execution of his office, or of wilfully giving a false account or certificate of the article or articles of Lumber, submitted to his inspection, measurement or calculation, or of any other wilful neglect, or prevarication with regard to the duty they are respectively intended to discharge, he shall, for every such offence, (on being convicted thereof,) forfeit and pay a sum not exceeding one hundred pounds, currency, and be dismissed from his office, and be for ever after incapable of holding or enjoying any such situation or employment.

New sureties required in certain cases.

XXVI. And be it enacted, that in the event of the departure from this Province, or the declared or known insufficiency, or the death of any of the sureties of the Supervisor

Supervisor, or of any Culler, respectively, it shall be the duty of each, respectively, immediately to procure other sufficient sureties, and to enter into a bond as provided for in this Act, and in default of his so doing his appointment or license shall become null and void.

XXVII. And be it enacted, that if any person or persons shall unlawfully use or shall counterfeit, or forge, or procure to be counterfeited or forged, any stamp directed to be provided for use, in pursuance of this Act, or shall counterfeit or imitate the impression of the same on any article of Lumber, or shall knowingly, wilfully and fraudulently deface, obliterate or remove, any of the marks or letters, which may have been marked, burned, or imprinted in or upon any article of Lumber, after the same shall have been as aforesaid culled or measured, every such person or persons so offending, shall, on being thereof lawfully convicted before any Court of competent jurisdiction, incur and forfeit a penalty not exceeding thirty pounds, currency, or be imprisoned for a term of not more than three calendar months, in the discretion of the Court: Provided always, that Timber re-dressed whereby the first measurement and dimensions shall necessarily become altered, may be re-measured, according to the provisions of this Act, by a shipping Culler.

Penalty on persons counterfeiting or fraudulently using stamps, &c.

Proviso.

XXVIII. And be it enacted, that if any person or persons shall wilfully and unlawfully (with the intention to set adrift,) unmoor, by cutting or otherwise, any Timber, Masts, Spars, Staves, Oars, Handspikes, Plank or Boards, Boat, Batteau or Scow,—or shall wilfully and unlawfully conceal any Lumber, Masts, Spars, Staves, Oars, Handspikes, Planks or Boards, Boat, Batteau or Scow, which having been adrift in any river or lake in this Province, shall be so found adrift or cast on shore in any part of such river or lakes, or any of them, and be saved,—or shall wilfully and unlawfully, deface or add, any mark or number on such Timber, Masts, Spars, Staves, Oars, Handspikes, Plank or Boards, Boat, Batteau or Scow, so saved, or make any false or counterfeit mark thereon,—or shall unlawfully aid or assist in doing any such act as aforesaid, or shall refuse to deliver up to the proper owners thereof or person in charge of the same on behalf of such owner, any such article aforesaid,—such person or persons, being duly convicted thereof, on the oath or complaint of one or more credible person or persons, before any two Justices of the Peace for any part of this Province, shall forfeit and pay a sum not exceeding fifty pounds, currency, nor less than five pounds, currency, for each offence; and one moiety of such penalty shall go to Her Majesty, and the other moiety to the informer or prosecutor, and the offender shall and may be imprisoned until such forfeiture be paid, but no such imprisonment shall for any first offence exceed three calendar months; and if any person be a second time convicted of any such offence, such person may be committed to the common

Penalties on persons setting adrift Timber, &c.

Or concealing timber found adrift.

Or defacing marks.

common Gaol of the District wherein such conviction shall be had, there to remain for and during the space of twelve calendar monthis.

Rafts to have
bright fires at
night.

XXIX. And be it enacted, that it shall be imperative on the owners or conductors of Rafts, to have bright fires kept burning during the night, while drifting on any of the navigable rivers, in this Province, on pain of being subject to pay a penalty not exceeding ten pounds, currency, upon conviction before any two of Her Majesty's Justices of the Peace.

Penalties, how
recoverable.

XXX. And be it enacted, that all the penalties, fines and forfeitures, by this Act imposed, shall be sued for, (except where otherwise provided for) within twelve months after the fact committed, and not afterwards, either in term time, before any of Her Majesty's Superior Courts of Record, or before any other Court having Civil Jurisdiction to the amount of the penalty, fine or forfeiture within the District wherein the offence shall have been committed, or in vacation before any Justice or Judge of such Court, in a summary manner, and shall also be recoverable, with costs, in the same manner as other debts of the same value are recoverable in this Province, by Bill, Suit, Plaint or Information; and one moiety of all such penalties, fines and forfeitures, (except such as are hereinbefore otherwise applied) shall be forthwith paid over to the Receiver General, and shall form part of the Consolidated Revenue Fund of this Province, and shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner as Her Majesty, Her Heirs and Successors shall direct, and the other moiety shall belong to the party aggrieved, or to the informer or person who shall prosecute or sue for the same.

And how dis-
posed of.

XXXI. And be it enacted, that any person who shall assault any Culler in the execution of his duty under this Act, or shall by threats, menaces or by violence, impede or prevent any Culler from the performance of his duty, such person upon being duly convicted thereof before any one of Her Majesty's Justices of the Peace, upon the oath of one credible witness, shall incur a penalty of five pounds, sterling money of Great Britain, and in default of payment shall forthwith be committed to the Common Gaol, there to be detained for the space of fifteen days, unless he shall sooner pay such penalty.

Time within
which actions
for things done
in pursuance
of this Act
must be
brought.

XXXII. And be it enacted, that if any Action or Suit shall be commenced against any person or persons, for any thing done in pursuance of this Act, such Suit or Action shall be commenced within the space of twelve Calendar months next after the offence shall have been committed, and not afterwards; and the defendant or defendants in such Action or Suit may plead the general issue, and give

give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act ; and if it shall appear so to have been done, then judgment shall be given or a verdict found for the defendant or defendants ; and if the plaintiff shall be nonsuited or shall discontinue his Action after the defendant or defendants shall have appeared, or if judgment shall be given against the plaintiff, the defendant may and shall recover costs, and have the like remedy for the same as defendants have in other cases by law.

Defendant if
successful to
have costs.

XXXIII. And be it enacted, that in case the Board of Examiners mentioned in this Act, or the Quebec Board of Trade, shall at any time refuse or neglect to comply with any of the requirements of this Act, it shall be lawful for the Governor of this Province, by and with the advice and consent of the Executive Council thereof, and on the complaint of the Supervisor of Cullers, to make any appointment which the said Quebec Board of Trade ought to have made, or to appoint any other persons to perform the duty which the said Board of Examiners ought to have performed.

The Governor in Council may appoint persons to carry this Act into effect if the Board of Trade or Board of Examiners shall fail so to do.

XXXIV. And be it enacted, that this Act shall commence and have force and effect, upon, from and after the first day of January, in the year one thousand eight hundred and forty-four.

Time when
this Act shall
take effect, &c.

C A P. XXVI.

An Act for securing the Province against any unnecessary loss on the judicial sale of certain parts of the vacant estate of the late Honorable Sir John Caldwell.

[16th November, 1843.]

WHEREAS, on the twentieth day of October, one thousand eight hundred and twenty-five, a judgment was rendered by the Honorable the Court of King's Bench for the District of Quebec, in favor of His late Majesty King George the Fourth, against the Honorable Sir John Caldwell, Baronet, (then the Honorable John Caldwell, Esquire,) formerly Receiver General of the late Province of Lower Canada, for the sum of ninety-six thousand, one hundred and seventeen pounds, thirteen shillings, and one penny and one half-penny, sterling money of Great Britain, equal to the sum of one hundred and six thousand, seven hundred and ninety-seven pounds, six shillings and eight pence, current money of the said late Province, being the balance of certain public monies of the said late Province then remaining unaccounted for in the hands of the said Honorable Sir John

Preamble.

Judgment re-
cited.

Judgment re-
cited.

Death of Sir
John Caldwell.

His Succes-
sion renoun-
ced.

Judgments
declared exe-
cutory against
the Curator to
his Vacant
Estate.

John Caldwell, in his quality of Receiver General, as aforesaid : And whereas, on the nineteenth day of April, one thousand eight hundred and twenty-six, a certain other judgment was rendered by the said Court, in favor of His said late Majesty King George the Fourth, and against the said Honorable Sir John Caldwell, Baronet, (then the Honorable John Caldwell, Esquire,) as sole heir at law of the late Henry Caldwell, Esquire, deceased, for the sum of seven thousand eight hundred and eighty-one pounds, eight shillings, and nine pence and one farthing, current money of the said late Province, with interest from the first day of January, one thousand eight hundred and twenty-three, for certain other public monies then remaining unaccounted for in the hands of the said Honorable Sir John Caldwell ; and whereas the said Honorable Sir John Caldwell, on or about the twenty-sixth day of October, one thousand eight hundred and forty-two, departed this life, to wit, at the City of Boston, in the State of Massachusetts, one of the United States of America, leaving as his lawful heirs and personal representatives, Sir Henry John Caldwell, of the City of Quebec, Baronet, and Graham John Eden, Henry Noel Eden and William Thomas Eden, in right of the late Ann Caldwell, their Mother, deceased,—that is to say, the said Sir Henry John Caldwell, Baronet, as being the only Son of the late Honorable Sir John Caldwell, issue of the marriage between him and the late Jane Davidson, deceased, his Wife ; and the said Graham John Eden, Henry Noel Eden and William Thomas Eden, being as aforesaid, heirs of the said late Ann Caldwell, issue of her marriage with John Eden, then of the City of Montreal, Esquire, the said Ann Caldwell, having been the only daughter of the said late Honorable Sir John Caldwell, issue of his said marriage ; And whereas, on the twentieth day of January last past, the said Sir Henry John Caldwell, Baronet, in due form of law, renounced the estate and succession of the said late Honorable Sir John Caldwell, Baronet, by deed before Tétu and his Colleague, Public Notaries, at Quebec, bearing date the day and year last aforesaid, and on the same day and year the said John Eden being the Tutor in due form of law appointed to the said Graham John Eden, Henry Noel Eden and William Thomas Eden, minors—under the age of twenty-one years, acting on their behalf and duly authorized so to do, renounced the estate and succession of the said late Honorable Sir John Caldwell, Baronet, by deed before Terroux and his Colleague, Public Notaries, at Montreal, bearing date the day and year last aforesaid, whereby the said estate and succession became vacant ; And whereas afterwards, to wit, on the eleventh day of February last past, Antoine Archange Parent, of the City of Quebec, Esquire, Notary Public, was in due form of law appointed Curator to the said vacant estate and succession ; And whereas, on the ninth day of June last past, upon information duly filed on behalf of Her Majesty, a certain other Judgment was rendered by the said Court in favor of Her Majesty, by which it was considered and adjudged by the said Court, that the said Judgment so as aforesaid rendered by the said

said Court on the twentieth day of October, one thousand eight hundred and twenty-five, should be and the same was thereby declared to be executory against the said Antoine Archange Parent, in his capacity of Curator as aforesaid, and that Her Majesty should have Her execution against him, as Curator as aforesaid, for the debt aforesaid in and by the Judgment last aforesaid mentioned, adjudged and awarded, to be levied of the goods and chattels, lands and tenements, which were of the said late Honorable Sir John Caldwell, at the time of his death, and in the hands of the said Antoine Archange Parent, as such Curator as aforesaid, to be administered; And whereas on the twentieth day of April last past, upon a certain other information duly filed on behalf of Her Majesty, a certain other judgment was rendered by the said Court in favor of Her Majesty, by which it was considered and adjudged by the said Court that the judgment so as aforesaid rendered on the nineteenth day of April, one thousand eight hundred and twenty-six, in favor of Our late Sovereign Lord King George the Fourth, against the said late Honorable Sir John Caldwell, should be and the same was thereby declared executory against the said Antoine Archange Parent, in his said capacity of Curator to the said vacant estate and succession of the said late Honorable Sir John Caldwell, and that in consequence the said Antoine Archange Parent, in his said capacity, be and he was thereby condemned to pay and satisfy to Her Majesty the sum of two thousand, eight hundred and ten pounds, sixteen shillings and seven pence, current money of this Province, as and for the balance then remaining due on the principal sum in the said last aforesaid judgment mentioned, (certain payments having theretofore been made in part satisfaction thereof) with the further sum of two thousand one hundred and seventy one pounds, six shillings and three pence, current money aforesaid, as and for arrears of interest accrued upon the balance of the principal sum aforesaid, from the seventeenth day of May, one thousand eight hundred and thirty, to the first day of April last past, and with the interest on the said principal sum of two thousand, eight hundred and ten pounds, sixteen shillings, and seven pence, from the said first day of April last past, until paid; And whereas also, certain payments have been made in part satisfaction of the said judgment so as aforesaid rendered on the twentieth day of October, one thousand eight hundred and twenty-five, so that there now remains due under the last mentioned Judgment a sum of seventy three thousand, nine hundred and thirty five pounds, twelve shillings, and nine pence and one half penny, current money aforesaid; And whereas for the payment and satisfaction of the above mentioned judgments, it is necessary that certain real property, belonging to the said vacant estate and succession of the said late Honorable Sir John Caldwell, should be seized and sold at Sheriff's sale; And whereas the Fief and Seignior of Lauzon, situate in the District of Quebec, in this Province, forms part of the real property still belonging to the said vacant estate and succession of the said late Honorable Sir John Caldwell, and by reason of the great value thereof, it will be highly advantageous

Seignior of
Lauzon, part
of his Estate.

tageous as well to the interests of the said vacant estate and succession, as to the interests of Her Majesty, that the same should be advertised for sale during a longer period than now allowed by law in like cases; And whereas, it may become necessary, in order to avoid loss to the Province, that the said Fief and Seigniority of Lauzon be purchased and acquired by and in the name of Her Majesty for the public uses of this Province; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall be lawful for the Governor of this Province, at any time from and after the passing of this Act, for the satisfaction of the above mentioned Judgments, to direct that a Writ or Writs of *feri facias*, or an *alias* Writ or *alias* Writs of the same nature be sued out in the usual and legal form, from and out of the said Court of King's Bench for the District of Quebec, against the said Fief and Seigniority of Lauzon, situate in the District of Quebec as aforesaid, the same to be under and by virtue of such Writ or Writs, seized and sold, according to law by the Sheriff of the District of Quebec: Provided always, that the sale of the said Fief and Seigniority, so to be made under such Writ or Writs, shall not take place at any time previous to the expiration of at least twelve Calendar Months, from and after the date of the first legal advertisement of the same, to be published by the said Sheriff, and the Writ or Writs so to be sued out as aforesaid, may be made returnable accordingly.

The said
Seigniority to be
sold.

Proviso.

Certain ex-
tra notices of
the sale to be
published.

II. And be it enacted, that the legal advertisement of such seizure and sale of the said Fief and Seigniority, to be made as aforesaid, shall be, by the said Sheriff, inserted and published in the French and English languages, twelve times during the said twelve months, in any two Newspapers published in each of the Cities of Quebec and Montreal, and in the Canada Gazette; any law, usage, or Custom to the contrary notwithstanding: Provided always, that no inaccuracy, omission, discontinuation or irregularity in the insertion, printing or publication of the said advertisement in the said Newspapers in the said Cities of Quebec and Montreal, or either of them, shall be deemed or taken to impair or affect the sufficiency and legality of the seizure and sale of the said Fief and Seigniority; any law, usage, or Custom to the contrary notwithstanding.

The Curator
to represent
the estate.

III. And be it enacted, that with regard to any seizure and sale of the said Fief and Seigniority so to be made under and by virtue of any such writ or writs, to be issued as aforesaid, the said Antoine Archange Parent shall be held, deemed, and taken to represent the vacant estate and succession of the said late Honorable
Sir

Sir John Caldwell, to all necessary intents and purposes of law whatsoever : Provided nevertheless, that the said seizure or any proceeding consequent thereupon, shall not lapse, abate, be discontinued, or in any manner affected, and the sale by virtue of the same shall not be delayed, postponed or prevented by the decease of him the said Antoine Archange Parent, or his removal from the office of Curator to the said vacant estate and succession ; but that in case of such decease or removal, the seizure and sale shall proceed and continue, in like manner and to all intents and purposes as if such decease or removal had not taken place, and the same shall be good and valid in law to all intents and purposes ; any seizure of the said Fief and Seigniori made before the passing of this Act, or any other matter or thing to the contrary notwithstanding.

Proviso,—
his death, or
removal not to
retard the sale.

IV. And be it enacted, that it shall be lawful for the Governor of this Province, by and with the advice and consent of the Executive Council thereof, to cause the said Fief and Seigniori to be purchased and acquired for and in the name of Her Majesty, for the public uses of this Province, at any Sheriff's sale of the said Fief and Seigniori, whether such sale take place under and by virtue of such writ or writs to be issued as aforesaid, or under and by virtue of any writ of execution sued out or to be sued out, by any other Creditor of the said vacant estate and succession ; and for the purpose of making such purchase and acquisition for and in the name of Her Majesty, as aforesaid, it shall be lawful for the Governor of this Province, by an instrument under his hand and seal, by and with the advice and consent of the said Executive Council, to appoint as Commissioners one or more persons, with power and authority to any one or more of them to attend any such sale of the said Fief and Seigniori, and to bid thereat for and in the name of Her Majesty, and to such amount as he or they shall be instructed and directed to bid by the Governor of this Province, by and with the advice and consent of the said Executive Council.

Governor
may appoint
Commission-
ers to bid at the
sale on behalf
of the Pro-
vince.

V. And be it enacted, that if at any such sale of the said Fief and Seigniori, any one or more of the said Commissioners be the highest bidder or bidders, the said Fief and Seigniori shall thereupon be adjudged to, and considered and deemed to be purchased and acquired for and in the name of Her Majesty, for the public uses of this Province, and the said Sheriff shall make to the said Court his return accordingly, and the property of the said Fief and Seigniori, shall by virtue of such adjudication and return, vest in Her Majesty, for the public uses of this Province ; and in such case it shall not be necessary for the Governor of this Province, or for the said Commissioners or any of them, to pay over to the said Sheriff the amount of the purchase money, or to give security for the payment of the same.

Case in which
the Commis-
sioners shall be
the highest
bidders.

VI.

Proceedings
if any other
person be the
highest bidder.

VI. Provided always, that no person except one of the said Commissioners shall be deemed to be the highest bidder at such sale, unless he shall then and there forthwith pay to the said Sheriff the sum of one thousand pounds, currency, to be forfeited to Her Majesty and paid by the Sheriff to the Receiver General for the public uses of the Province, if the said Fief and Seigniorie should be resold in the manner hereinafter mentioned in consequence of the *folle enchère* of such person, who shall nevertheless remain liable for any loss sustained by reason of his said *folle enchère*, as if no such sum as aforesaid had been paid and forfeited.

Time allowed
for payment of
balance of pur-
chase money.

VII. Provided also, and be it enacted, that if any person other than one of the said Commissioners shall be the highest bidder at such sale as aforesaid, such person shall have thirty days, of which the day of sale shall be reckoned as one, to pay the purchase money to the Sheriff; but if on or before the last of the said thirty days, such person shall not so pay the purchase money, then such person shall forfeit all right or claim founded on his bidding or biddings, and the adjudication made to him shall be null and void; and on the day (not being a Sunday or Holiday) which shall be next after the last of the said thirty days, the Sheriff shall without further notice put up the said Fief and Seigniorie for sale to the highest bidder at his Office, in the City of Quebec, commencing the sale at ten of the clock in the morning of the day last aforesaid, but at such sale no person, except one of the said Commissioners, shall be deemed to be the highest bidder unless he shall then and there pay to the Sheriff the sum by him bid; and the adjudication made at such second sale shall be valid to all intents and purposes, and shall have the same effect as if made at the first sale, and the Sheriff shall make his return accordingly; any law, usage or custom to the contrary notwithstanding.

In case of
non-payment,
the sale to take
place *de novo*.

Rights of
claimants on
the Seigniorie
to be determin-
ed and certain
claims paid by
Receiver Gen-
eral if the Seig-
niorie be bought
for the Pro-
vince.

VIII. And be it enacted, that if the said Fief and Seigniorie be at any such sale adjudged to, and purchased and acquired for and in the name of Her Majesty, Her Heirs and Successors, the said Court shall upon the return of the said Sheriff, proceed in due course of law to hear, try and determine the several claims which shall and may be made upon the proceeds of such sale, and to give and render such Judgment of distribution as the case may require, of which judgment the Clerk or Prothonotary of the Court shall forthwith cause a true Copy to be transmitted to the Inspector General of Public Provincial Accounts, in order that a Warrant or Warrants may thereafter issue for the payment, to any person or persons who shall be collocated in and by the said judgment, of the sum or sums of money for which he or they shall be so collocated, out of any unappropriated monies in the hands of the Receiver General.

Sheriff's al-
lowance on the
sale.

IX. And be it enacted, that upon any such sale of the said Fief and Seigniorie, the said Sheriff shall not be authorized to charge, over and above his disbursements,

ments, any Commission at the rate of two and a half per cent. as heretofore allowed, to be deducted out of the monies levied by such sale; any law to the contrary notwithstanding: but in such case, the said Sheriff shall be entitled only to charge, over and above all his disbursements, and in lieu of such Commission, a sum of twenty five pounds, currency, if the purchase of the said Fief and Seigniorie be made for and in the name of Her Majesty, and a sum of one hundred pounds, currency, if such purchase be made by any other person or persons, and no more.

X. Provided always, and be it enacted, that nothing in this Act contained shall be construed to extend to any property belonging to the said vacant estate and succession, other than the said Fief and Seigniorie; and any such other property may and shall be proceeded against, taken in execution and sold in the ordinary course of law, as if this Act had not been passed.

Other parts
of the estate to
be sold in the
usual manner.

XI. And be it enacted, that the due application of any public monies paid under this Act, shall be accounted for to Her Majesty through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty shall direct; and that an account of all such monies shall be laid before the Legislative Assembly of this Province within fifteen days after the opening of the then next Session thereof.

Accounting
Clause.

XII. And be it enacted, that the words "Governor of this Province," whenever they occur in this Act, shall be understood to include any person authorized to execute the Commission of Governor; that the words, "Her Majesty," shall be understood to include Her Majesty, Her Heirs and Successors; and that the words "Lower Canada," shall be understood to mean all that part of this Province which formerly constituted the Province of Lower Canada.

Interpreta-
tion Clause.

CAP. XXVII.

An Act to empower the Seigniors of the Fiefs Nazareth, St. Augustin and St. Joseph, in the City and County of Montreal, to commute the Tenure of the Lands now held *en censive* in the said Fiefs, respectively.

[9th December, 1843.]

WHEREAS it is expedient to empower the Seigniors of the Fiefs herein-after mentioned, lying in the City and County of Montreal, to commute with their *Censitaires*, for the release and extinguishment of all Seigniorial rights, dues

Preamble

The Seigniors of the Fiefs Nazareth, St. Augustin, and St. Joseph empowered to commute with their *Censitaires*.

On such terms as may be agreed upon.

Consequence of such commutation.

Proviso—nothing in this Act to exempt the said Seigniors from the effect of any general law for commutation.

dues and burthens, whatsoever ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council, and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall be lawful for the Seignior or Seigniors of any of the Fiefs Nazareth, St. Augustin, and St. Joseph, in the City and County of Montreal, respectively, to commute with any person or persons, body or bodies politic or corporate, or other party or parties whomsoever, who now hold or hereafter may hold any real or immoveable property *à titre de cens* or *en roture*, for the release and extinguishment of all *droits de lods et ventes, cens et rentes*, and other Seigniorial burthens whatsoever, to which such real or immoveable property may be liable, for such consideration and indemnity as by such Seignior or Seigniors and the party desirous of obtaining such Commutation shall be mutually settled and agreed upon ; and from and after the voluntary settlement and adjustment of the terms of such Commutation and the passing of a Notarial Instrument for effecting the Commutation so agreed upon, all and every the *droits de cens et rentes, lods et ventes, droit de retrait*, and all other Seigniorial rights, dues and burthens whatsoever, on the real or immoveable property to which such Commutation shall relate shall be forever commuted, released and extinguished, and such real or immoveable property shall be thenceforth holden for ever by the Tenure of *Franc Aleu Roturier*, according to the Laws of Lower Canada, and shall never again be granted, conceded or holden by any Seigniorial or Feudal Tenure whatsoever : Provided always, that nothing herein contained shall be construed to exempt the Seignior or Seigniors of any of the said Fiefs, from the operation of any general law which may be hereafter passed for effecting a general commutation of Seigniorial Tenure throughout Lower Canada.

C A P . XXVIII.

An Act to detach the Township of Chatham Gore, otherwise called the Gore of Chatham, from the County of Terrebonne, and to annex it to the County of the Two Mountains.

[9th December, 1843.]

Preamble.

Act of L. C. 9 G. 4, c. 73, cited.

WHEREAS; by the terms of the Act of the Legislature of Lower Canada, passed in the ninth year of the Reign of His late Majesty King George the Fourth, and intituled, *An Act to make a more convenient subdivision of the Province*

*vince into Counties, for the purpose of effecting a more equal representation thereof in the Assembly than heretofore, the tract of land which now forms the Township of Chatham Gore, otherwise called the Gore of Chatham, lying in the rear of the Seignior of Argenteuil, in the District of Montreal, was included in the County of Terrebonne ; And whereas, from the position of the said Township, it would be more advantageous to the Inhabitants thereof, that it should form part of the County of the Two Mountains ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act, the said Township of Chatham Gore, otherwise called the Gore of Chatham, shall be and is hereby detached from the said County of Terrebonne, and shall be included in and make part of the said County of the Two Mountains, to and for all intents and purposes whatsoever ; any thing in the Act herein first above cited to the contrary notwithstanding.*

The Township of Chatham Gore detached from the County of Terrebonne, and annexed to the County of the Two Mountains.

CAP XXIX.

An Act for the establishment and maintenance of Common Schools in Upper Canada.

[9th December, 1843.]

WHEREAS it is expedient to make provision for the establishment and maintenance of Common Schools in that part of this Province called Upper Canada, and also for the establishment and maintenance of Model Schools therein ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the Secretary of this Province shall, ex-officio, be Chief Superintendent of the Common Schools of Upper Canada aforesaid, subject nevertheless to all lawful orders and directions in the exercise of his duties as such Chief Superintendent, as shall from time to time be issued or given in that behalf by the Governor of this Province.

Preamble.

Chief Superintendent of Common Schools appointed.

II.

E E

Assistant
Superinten-
dent.

II. And be it enacted, that it shall and may be lawful for the Governor of this Province, from time to time, to appoint an Assistant Superintendent of Common Schools for Upper Canada aforesaid, who shall act in all things under the direction of the said Chief Superintendent.

Superinten-
dent to appor-
tion the monies
arising from
the Common
School Fund;
and in what
ratio.

III. And be it enacted, that on or before the first day of March in each year, it shall be the duty of the said Chief Superintendent, after deducting any sum which shall be set apart for the maintenance of Model Schools, as hereinafter provided, to apportion any sum or sums of money, appropriated by the Legislature for Common Schools in Upper Canada aforesaid for the year under or by virtue of any Act or Acts passed or to be passed in that behalf, and that such apportionment shall be made according to the ratio of population of each County, Township, Town or City, as compared with the population of Upper Canada, according to the Census of population which shall last have been taken, and returned at the time of such apportionment.

To apportion
the same ac-
cording to the
best of his
Judgment in
certain cases.

IV. And be it enacted, that when the Census or returns upon which an apportionment is to be made shall be so far defective in respect of any County, Township, Town or City, as to render it impracticable for the Chief Superintendent to ascertain the share of School Moneys which ought to be apportioned thereto, and whenever, in consequence of the erection of a new County, Township, Town or City, or the alteration of the Boundaries thereof, the apportionment under the Census then last taken would become inapplicable or would be unjust, as between two or more Counties, Townships, Towns or Cities, the Chief Superintendent shall make his apportionment for the year, according to the best evidence in his power upon the facts upon which the ratio of apportionments as to such Counties, Townships, Towns or Cities, shall depend.

To notify the
apportionment
to certain offi-
cers.

V. And be it enacted, that the Chief Superintendent shall certify such apportionment made by him to the Inspector General of the Province, and shall give immediate notice to the Superintendent of Common Schools of each County interested therein, stating the amount of Moneys apportioned to his County, and to each Township, Town and City therein.

To prepare
forms and re-
gulations.

VI. And be it enacted, that the Chief Superintendent aforesaid shall prepare suitable forms and regulations for making all reports and conducting all necessary proceedings under this Act, and shall cause the same, with such instructions as he shall deem necessary and proper for the better organization and government of Common Schools, to be transmitted to the Officers required to execute the provisions of this Act throughout Upper Canada aforesaid.

VII.

VII. And be it enacted, that the Chief Superintendent aforesaid shall, from time to time, furnish to the County Superintendents throughout Upper Canada aforesaid, for the use of the several School Districts, such and so many copies of this Act, and of the Forms, Regulations and Instructions, prepared by him, as he shall deem requisite and necessary.

And furnish copies thereof and of this Act to the local School authorities.

VIII. And be it enacted, that the sum annually to be distributed for the encouragement of Common Schools in Upper Canada aforesaid, shall be payable on the first day of August in each year, by warrant to the Superintendents of Common Schools of the several Counties in Upper Canada, aforesaid.

At what time the annual School allowance shall be payable, and to whom.

IX. And be it enacted, that each County Superintendent receiving such moneys shall forthwith give notice in writing to the Township, Town and City Superintendents of Common Schools within his County, of the amount apportioned to each Township, Town or City, and shall hold the same subject to the orders of such Township, Town and City Superintendents, respectively.

Duty of County Superintendents as to such moneys.

X. And be it enacted, that in case the Superintendent of any such Township, Town or City, shall not apply for and receive such moneys before the next receipt of moneys apportioned to the County, or in case the Council of any Township, Town or City, shall not entitle such Township, Town or City to receive the sum apportioned thereto under this Act, the moneys remaining with the County Superintendent shall be retained by him, and shall be distributed in addition to the moneys next received by him for distribution for Common Schools, as aforesaid, and in the same proportions.

Such moneys how to be appropriated if not applied for by the local School authorities, in any year.

XI. And be it enacted, that whenever the County Superintendent of Common Schools in any County shall receive from the Superintendent notice of the apportionment of moneys to be distributed in his County, he shall forthwith transmit a certified copy of such apportionment to each Township, Town and City Clerk, within such County, so far as the same relates to such Township, Town or City.

Apportionment to be notified to local authorities.

XII. And be it enacted, that it shall be the duty of the said Clerk to lay such certified copy before the Council for his Township, Town or City, and the Township, Town or City Council shall without delay cause to be levied in the Township, Town or City, a sum of money for Common School purposes, at least equal (clear of all charges of collection) to the amount of public money apportioned to such Township, Town or City; such sum to be increased at the discretion of the Council to an amount not more than double the said apportionment of public money; and such sum, so to be raised, shall be placed on the Collector's Roll, and shall be by him collected, in like manner as any other tax for such Township,

Duty of Township, Town and City Councils on receiving notice of such apportionment.

Township, Town or City, and shall be by him paid over to the Township, Town or City Superintendent of Common Schools.

Local Councils may exempt School Districts from the Tax on the ground of poverty.

XIII. And be it enacted, that it shall be lawful for any Township, Town or City Council to exempt any number of School Districts, not exceeding two, within such Township, Town or City, from the payment of the Tax for the support of Common Schools, on account of the poverty of their inhabitants.

Superintendent of Schools for each Township, Town and City.

XIV. And be it enacted, that there shall be a Superintendent of Common Schools in each Township, Town and City, to be appointed by the Council thereof, and to hold office during their pleasure; and every such appointment, and every vacancy occurring in the office, shall be notified within ten days to the County Superintendent by the Township, Town or City Clerk; and it shall be the duty of the Superintendent for each Township, Town or City :—

His duties.

1.—To divide the same, subject to the direction and approval of the Township, Town or City Council, into a convenient number of School Districts and parts of Districts, and to regulate and alter such Districts and parts of Districts, as hereinafter provided.

2.—To describe and number the School Districts and parts of Districts, and to deliver the description and numbers thereof, in writing, to the Township, Town or City Clerk, immediately after the formation or alteration thereof.

3.—To apply for and receive from the County Superintendent, the portion of School Moneys apportioned to the Township, Town or City, and likewise from the Town or City Collector, or Treasurer, all moneys which shall be raised for the purposes of Common Schools in their Township, Town or City; the aggregate of which moneys shall constitute the School Fund of the Township, Town or City.

4.—To apportion the said School Fund, so soon as its amount shall have been ascertained, among the several School Districts and parts of Districts within the Township, Town or City, in proportion to the number of Children residing in each, over the age of five and under the age of sixteen years, according to the last annual reports of the School Trustees.

5.—To sue for and collect, by his name of office, all Penalties and Forfeitures imposed by this Act, within his jurisdiction, and with respect to which no other provision is made, which shall be incurred by any Officer or Inhabitant of the Township, Town or City; and after deducting his costs and expenses, to add the sums recovered to the School Moneys received by him, to be apportioned and expended in like manner.

6.—

6.—To visit all Common Schools within the Township, Town or City, at least once a year, and oftener, if he shall deem it necessary.

7.—To examine all persons offering themselves as Candidates for teaching Common Schools within the Township, Town or City, and on being satisfied of the qualification of the Candidates in respect of moral character, learning and ability, to grant certificates in such form as shall be prescribed by the Superintendent of Common Schools; which certificates shall be valid for one year, and shall entitle the holder thereof to teach a Common School within such Township, Town or City, respectively.

8.—To annul any certificate given by him or any of his predecessors in office, whenever he shall see just cause for so doing, by giving at least six weeks notice in writing to the Teacher who shall hold it, with the reasons which have led him to annul such certificate, and giving the same notice and reasons to the Trustees of the School District in which he may be employed, and leaving with the Teacher, if he shall think himself aggrieved by the decision, the power to appeal by Memorial to the review and decision of the County Superintendent.

XV. And be it enacted, that every Superintendent of Common Schools for any Township, Town or City, shall make out and transmit to the County Superintendent, between the first day of January and the first day of March in each and every year, a report in writing, in a form to be prescribed by the Chief Superintendent, bearing date on the first day of January in the year of its transmission, and stating:—

He shall transmit Reports to the County Superintendent.

1.—The whole number of School Districts and parts of Districts, separately, set off within the Township, Town or City.

What such Reports shall shew.

2.—The Districts and parts of Districts, from which reports shall have been made to the Township, Town or City Superintendent within the time limited for that purpose.

3.—The length of time a School shall have been kept in each of such Districts or parts of Districts, distinguishing what portion of that time the School shall have been kept by qualified Teachers.

4.—The amount of public moneys received in each of the said Districts and parts of Districts, and also the further amounts raised by the Trustees for School purposes, and the application of the same.

5.—

5.—The number of Children taught in each over the age of five and under sixteen years ; and also the number of children residing in each over the age of five and under sixteen years.

6.—The whole amount of the moneys received by the Superintendent, or his predecessor in office, during the year ending at the date of the report, and since the date of the preceding last report ; distinguishing the amount received from the County Superintendent on account of the public money apportioned, the amount from the Township rate, and the amounts from any other and what sources.

7.—The manner in which such moneys have been expended, and whether any and what part remains unexpended, and from what cause.

He shall give
security.

XVI. And be it enacted, that every Superintendent of Common Schools for any Township, Town or City, shall, before he enters upon the duties of his office, enter into a bond with two or more sufficient sureties to such amount as shall be required by the Township, Town or City Council, and such bond shall be to the Township, Town or City, and the sureties shall be to the satisfaction of the Township, Town or City Council, and such bond shall be conditioned for the faithful performance of the duties of such Superintendent.

Alterations
of School Dis-
trict.

XVII. And be it enacted, that no alteration of any School District, made without the consent of the Trustees thereof, shall take effect until three months after notice in writing shall have been given thereof to one or more of such Trustees.

No appor-
tionment to
School Dis-
tricts, having
no report for
the preceding
year.

XVIII. And be it enacted, that in making the apportionment of School moneys among the several School Districts, no share shall be apportioned to any District or part of a District, from which no sufficient annual report shall have been received for the year ending on the last day of December preceding the apportionment.

Nor unless
certain other
conditions
have been com-
plied with.

XIX. And be it enacted, that no part of such moneys shall be apportioned or paid to any District or part of a District, unless it shall appear by such report, that a School had been kept therein for at least three months during the year ending at the date of such report, by a qualified Teacher, and that all moneys received from the Township, Town or City Superintendent during the year ending at the date of such report, have been faithfully applied in paying for the compensation of such Teacher.

Changes in
the limits of
School Dis-

XX. And be it enacted, that if after the annual reports shall have been received, and before the apportionment of the School moneys shall have been made by the Superintendent,

Superintendent, a District shall be duly altered or a new District formed, so as to render an apportionment founded solely on the annual reports unjust, as between two or more of the said Districts, the Township, Town or City Superintendent shall make an apportionment among such Districts according to the number of children in each over the age of five and under sixteen years, ascertaining that number by the best evidence in his power.

tricts how to affect the apportionment in certain cases.

XXI. And be it enacted, that when a School District shall have been formed at such time previous to the first of January as not to have allowed a reasonable time to have kept a School therein for the term of three months, such District having been formed out of a District or Districts in which a School shall have been kept for three months by a Teacher duly qualified during the year preceding the first day of January, the said new District shall be entitled to its allowance of School moneys ; and the same shall be allotted by the Superintendent, according to the number of children over the age of five and under sixteen therein, to be ascertained according to the best evidence in the power of the Superintendent.

The same as to new District formed out of others.

XXII. And be it enacted, that all moneys apportioned by the Superintendent of any Township, Town or City under this Act, to the Trustees of a District or part of a District, which shall have remained in the hands of the Superintendent for one year after such apportionment, by reason of the Trustees neglecting or refusing to receive the same, shall be added to the moneys next thereafter to be appropriated by such Superintendent, and shall be apportioned and paid therewith and in like manner.

Appropriation of moneys not applied for by the Trustees of any School District.

XXIII. And be it enacted, that in case any School moneys received by the Superintendent of any Township, Town or City, cannot be apportioned by him for the term of two years after the same are received, by reason of the non compliance of all the School Districts in the Township, Town or City, with the provisions of this Act, such moneys shall be returned by him to the County Superintendent, to be by him apportioned and distributed together and in the same manner with the moneys next thereafter to be received by him for the use of Common Schools.

And of moneys which cannot be apportioned by the local Superintendent.

XXIV. And be it enacted, that whenever it may be necessary or convenient to form a District out of two or more adjoining Townships, the Superintendents of such adjoining Townships shall jointly regulate such District, and shall each visit the School therein established ; and in such cases, or where any School-House shall stand on the division line of any two Townships, the Superintendent of either Township may examine into the qualification of any person offering to teach in such District, and may give him a certificate of qualification, and may annul the same, as hereinbefore provided.

School Districts forming part of two adjoining Townships.

XXV.

Proceedings
in case the
Superinten-
dent of a City,
Town or
Township
shall fail to
make his re-
port.

XXV. And be it enacted, that in case the Superintendent of any Township, Town or City shall not, on or before the first day of March in any year, transmit to the County Superintendent his report, as hereinbefore provided, it shall be the duty of the County Superintendent to give immediate notice of such neglect to the Chief Superintendent of Common Schools, and to the Warden or Mayor of such Township, Town or City; and the share of the School moneys apportioned to such Township, Town or City, may, in the discretion of the County Superintendent of Common Schools, be withheld and be distributed amongst the other Townships, Towns and Cities in the County, from which the necessary reports shall have been received; and the Superintendent neglecting to make such report, shall forfeit to the use of his Township, Town or City, the sum of ten pounds; and when the share of School moneys apportioned to such Township, Town or City, or any part of such moneys, shall thus be lost to the Township, Town or City, the Superintendent guilty of the neglect aforesaid shall further forfeit to the Township, Town or City, the full amount of the moneys so lost with interest, to be recovered of him and his sureties; and it shall be the duty of the Township, Town or City Treasurer, upon notice of such loss from the County Superintendent of Common Schools, to prosecute without delay, in the name of the Township, Town or City, for such forfeiture, and the moneys recovered shall be distributed and paid by such Treasurer, to the several School Districts and parts of Districts, in the same manner as it would have been the duty of the Superintendent to have distributed and paid the same, if received by him as Common School money.

Such Super-
intendents to
render ac-
counts, pay
over balances,
&c.

XXVI. And be it enacted, that each Township, Town and City Superintendent shall keep a just and true account of all School moneys received and expended by him in each year, and shall deliver the same to the Township, Town or City Clerk, to be by him laid before the Council; and in case of the removal from office of any Township, Town or City Superintendent, or in case of his resignation or removal of residence from the Township, Town or City, he shall immediately thereupon render to his successor in office a just and true account of all School moneys received and expended by him during the year, and of all balances in his hands, and shall forthwith pay over all such balances to his said successor, who shall appropriate the same in like manner as it should have been appropriated by such Superintendent had he remained in office; and if any such vacancy shall happen by the death of any Superintendent, his personal representatives or sureties shall render such account and pay over such balance; and every Superintendent who shall refuse or neglect to render such account or to pay over such balance, shall forfeit and pay the sum of twenty-five pounds, which, together with such balance, so far as the same can be ascertained, and interest thereon, shall be recoverable from such Superintendent or from his sureties, at the suit of such successor, whose duty it shall be to sue for the same in his name of office.

Penalty for
non-compli-
ance.

XXVII.

XXVII. And be it enacted, that the Township, Town or City Clerk, in each Township, Town or City, respectively, shall be the Clerk of the Superintendent of Common Schools for such Township, Town or City, and he shall receive and keep all reports made to the Superintendent by the trustees of School Districts, and all books and papers belonging to the office of the Superintendent, and shall prepare, under his direction, all his reports, estimates and apportionments of school money, and shall record the same and his other proceedings in a book to be kept for that purpose, and shall receive all such communications as may be directed to him by the Superintendent of Common Schools, and shall dispose of the same in the manner directed therein, and shall transmit to the County Superintendent all such reports as shall be made for him by the Township, Town or City Superintendent, and generally shall do and execute all such things as belong to his office, and may be required of him by the Superintendent for his Township, Town or City.

The Clerk of the locality to be the Clerk of the Superintendent for the same: his duties as such.

XXVIII. And be it enacted, that it shall be the duty of every Township, Town or City Clerk to report in writing to the County Superintendent for the County in which his Township, Town or City may be situate, every appointment of a Township, Town or City Superintendent which may be made from time to time by the Township, Town or City Council, and the name and address of the person so appointed, and also every vacancy occurring in the said Office of Township, Town or City Superintendent, within seven days after any such appointment or vacancy shall have taken place.

Further duties.

XXIX. And be it enacted, that there shall be a County Superintendent of Common Schools in each County, to be appointed by the Court of Wardens for such County, and to hold office during their pleasure; and in case the Court of Wardens shall neglect or refuse to appoint such Superintendent at their first meeting in each year, or at their first meeting after any vacancy may have occurred, it shall and may be lawful for the Governor of this Province to make such appointment, and the person so appointed shall hold office until a successor shall have been appointed by the Court of Wardens, and shall have given the security required by this Act.

County Superintendents to be appointed and by whom.

XXX. And be it enacted, that it shall be the duty of the County Clerk, within seven days after the close of the first meeting of the Court of Wardens, held in any year or after any vacancy in the office of County Superintendent may have occurred, to inform the Chief Superintendent of Common Schools whether the Court of Wardens have or have not appointed a County Superintendent of common schools; and in case they have made such an appointment, it shall be the duty of the said County Clerk, to acquaint the said Superintendent with the name and

Duty of the County Clerk in case the Office of County Superintendent be not filled, or become vacant.

and address of the person so appointed, and in the event of any vacancy taking place, it shall be the duty of the County Clerk to make the same known to the Chief Superintendent forthwith.

County Superintendent to give security.

XXXI. And be it enacted, that each County Superintendent of common schools shall, before he enters upon the duties of his office, enter into a bond with two or more sufficient sureties, to such amount as shall be required by the Court of Wardens; and such bond shall be to the County, and the sureties shall be to the satisfaction of the Court of Wardens, and such bond shall be conditioned for the faithful performance of the duties of such Superintendent.

He shall examine persons wishing to become Teachers.

XXXII. And be it enacted, that it shall be the duty of the County Superintendent of each County to examine all persons offering themselves as candidates for teaching Common Schools within such County, and that in making such examination it shall be the duty of such Superintendent to ascertain the qualifications of the candidate, in respect of moral character, learning and ability; and if the County Superintendent shall be satisfied in respect to the qualifications of the candidate, he shall deliver to the person so examined a certificate signed by him in such form as shall be prescribed by the Chief Superintendent of Common Schools.

Nature of the certificates of qualification to be granted by him.

XXXIII. And be it enacted, that the certificate so to be granted may either be general, in which case they shall be valid throughout the County, or special, in which case the Township, Town or City, or school district, in which such applicant shall be authorized to teach, shall be specified; and such special certificate shall only qualify the person to teach within the place so specified.

General certificates to be valid until revoked.

XXXIV. And be it enacted, that such general certificate shall be valid until the same is annulled or otherwise revoked by the County Superintendent; and such special certificate shall be valid for the year in which it is granted, unless so annulled or revoked.

In what manner they may be revoked.

XXXV. And be it enacted, that the County Superintendent may annul whenever he shall see just cause to do so, any such certificate given by him or by any of his predecessors in office, or by any Township, Town or City Superintendent of Common Schools, giving at least ten days notice in writing to the Teacher who shall hold it, and to the Trustees of the School District in which he may be employed, of his intention to annul the same; and that such annulling of any certificate shall not disqualify the Teacher to whom it was given, until a note in writing thereof, containing the name of the teacher and the time when his certificate was annulled, shall be made by the County Superintendent, and filed in the office of the Township, Town or City Clerk.

XXXVI.

XXXVI. And be it enacted, that the County Superintendent shall, so often as he shall be required thereto by the Chief Superintendent of Common Schools, and so often as such County Superintendent shall deem it expedient, require a re-examination of all or any of the teachers in the County, for the purpose of ascertaining his, her or their qualifications to continue as such teachers.

Re-examination of Teachers in certain cases.

XXXVII. And be it enacted, that from and after the first day of January, which will be in the year of our Lord, one thousand eight hundred and forty-six, it shall not be lawful for any Township, Town, City or County Superintendent of Common Schools, to grant any certificate to any person as a teacher of a Common School or of Common Schools, who shall not at the time of granting such certificate be a natural born or naturalized subject of Her Majesty, Her Heirs or Successors.

Aliens not to be Teachers after a certain time.

XXXVIII. And be it enacted, that it shall be the duty of the Superintendent of Common Schools for each County, to visit all Common Schools therein at least once a year, and oftener if he shall deem it necessary.

County Superintendent to visit Schools.

XXXIX. And be it enacted, that at such visitations, the said Superintendent shall examine into the state and condition of the Schools, both as respects the progress of the scholars in learning, and the good order of the Schools, and may give his advice and direction to the trustees and teachers as to the government thereof, and the course of studies to be pursued therein.

His duties at such visitations.

XL. And be it enacted, that it shall be the duty of each County Superintendent to make an annual report to the Chief Superintendent of Common Schools, at such time and in such form as shall be appointed by the said Chief Superintendent; and also to furnish the said Chief Superintendent, from time to time, with all such additional information as he may require.

To report yearly to the Chief Superintendent.

XLI. And be it enacted, that each County Superintendent who shall refuse or neglect to make any such annual or other report at such time and in such form as the Chief Superintendent of Common Schools may require, shall forfeit the sum of fifteen pounds for every such refusal or neglect; and such penalty shall be recoverable with costs from such County Superintendent, or from his sureties or representatives, by a suit at law to be instituted within twelve months after such default, by the Chief Superintendent of Common Schools or by the Court of Wardens for the County; and any amounts so recovered shall be paid over to the Chief Superintendent of Common Schools, and shall by him be added to the monies apportioned for the ensuing year to such County, and shall be distributed with the said monies, and in like manner, between the several Townships, Towns and Cities in such County.

Penalties for refusal or neglect.

Appropriation of penalties.

XLII.

First meeting, and yearly meetings there-after in each School District provided for.

XLII. And be it enacted, that whenever any School District shall be formed in any Township, Town or City, it shall be the duty of the Superintendent of Common Schools for such Township, Town or City, within twenty days thereafter, to prepare a notice in writing, describing such District, and appointing a time and place for the first School District Meeting, and to cause copies of such notice to be posted in at least three public places in such School District, at least six days before the time so appointed for holding such meeting; and that after such first School District Meeting, there shall be held a like School District Meeting, on the second Tuesday of January in each year.

Mode of holding and conducting such meetings.

Election of School Trustees.

Vacancies.

Case of failure to elect Trustees.

XLIII. And be it enacted, that at each of the said School District Meetings, and at each annual School District Meeting, the resident Freeholders and Householders shall appoint a Chairman to preside at such Meeting, and shall afterwards elect from amongst themselves three Trustees of the Common School of such School District, who shall hold office from the time of their election until the day for the election of Trustees for the next year, or until such time as their successors shall be duly elected or appointed; and if any vacancy shall happen within any year by death, removal from the Township, or refusal to act or to take the oath of office, the Township Superintendent shall fill up the vacancy; and if the Inhabitants of any School District shall neglect or refuse to attend such meeting, and if there shall be no election of Trustees, then such School District shall not receive any share of the money apportioned or raised for Common Schools in the year in which the default may be made, but the amount to which such School District would have been entitled shall be apportioned in like manner, and to the same purposes, as if the Trustees had been duly elected and had failed in making their reports, as hereinbefore provided.

Duties of such School Trustees.

XLIV. And be it enacted, that it shall be the duty of the Trustees for each School District, and they shall be empowered and entitled:

1.—To have the custody and safe keeping of the Common School-House for their District.

2.—To contract with, and employ all Teachers within the same.

3.—To give orders on the Township, Town or City Superintendent, in favor of such Teachers, when qualified, for the amounts due to them for their Salaries, so far as the moneys in his hands applicable to their District shall be sufficient for that purpose; and to collect and pay over to the Teachers the residue of such salary, excepting such sums as may be collected by the Teachers from any persons liable therefor.

4.—

4.—To exempt from the payment of wages to Teachers such indigent persons within their District as they shall think proper, and to certify such exemptions and deliver the certificate thereof to the Township, Town or City Superintendent.

5.—To ascertain, by examination of the School lists kept by such Teachers, the number of days for which each person not so exempted shall be liable to pay for instruction, and the amount payable by each person.

6.—To make out a Rate Bill containing the name of each person so liable, and the amount for which he is liable ; and by themselves or any one of them, or by some person authorized by them in that behalf, to collect the amount rated against any person or persons charged on such Rate Bill, together with five per centum on such amount for the cost of collection, and to pay the amount so collected to the Teacher or Teachers entitled to receive the same ; and in default of payment by the person so rated, to levy the amount by distress and sale of the goods and chattels of the person or persons making default.

7.—To regulate for such School the course of study, and the books to be used therein, and to establish general rules ; subject, nevertheless, to the approval of the Township, Town or City Superintendent : And provided always, that it shall not be lawful for such Trustees, or for the Chief or other Superintendent of Common Schools, or for any Teacher to exclude from any Common School or from the benefit of education therein, the children of any class or description of persons resident within the School District to which such Common School may belong.

XLV. And be it enacted, that it shall and may be lawful for any person or persons charged upon such Rate Bill, to pay the amount of the rate to the Teacher for whose remuneration the same was to be collected ; and the receipt of such Teacher if produced to the Trustee or Trustees who have the collection of such rate, or to any Collector appointed by them, shall be a sufficient discharge for such rate.

Amount
charged to any
person on Rate
Bill may be
paid to the
Teacher

XLVI. And be it enacted, that the said Trustees shall settle the proportion of Fuel which every person sending a Child or Children to such School shall be liable to provide, and that the said persons so sending a Child or Children to such School, with the exception of those who shall be exempted as indigent by the said Trustees, shall be liable to furnish such proportion of Fuel ; and if they shall neglect to furnish the proportion aforesaid of such Fuel, the Trustees aforesaid shall furnish the same, and charge the value upon the said Rate Bill, and shall collect the same in like manner as other sums charged upon such Rate Bill.

Fuel for the
School House:
How provided.

XLVII.

Sums on the Rate Bill may be sued for in certain cases by the Trustees.

XLVII. And be it enacted, that if any person charged upon such Rate Bill shall not reside within such School District when such collection shall be made, and if there shall be no Goods and Chattels of such person within the District on which the said charge can be levied, to the knowledge of the said Trustees, the said Trustees may sue for and recover such charge of such person, by their name of office.

School Trustees to make Reports to the local Superintendents.

XLVIII. And be it enacted, that the Trustees of each School District shall, after the first day of January in each year, and on or before the first day of February thereafter, make and transmit a Report to the Township, Town or City Superintendent of Common Schools, through the Township, Town or City Clerk, and in the form which shall from time to time be directed by the Superintendent of Common Schools, dated on the first day of January in the year in which it shall be transmitted; and every such report shall be signed and certified by a majority of the Trustees making the same, and shall specify:—

What such Reports shall shew.

1.—The whole time any School has been kept in their District during the year ending on the day previous to the date of such Report; distinguishing what portion of the time such School has been kept by a qualified Teacher or Teachers.

2.—The amount of Moneys received from the Superintendent for the Township, Town or City, during such year, and the manner in which such Moneys have been expended.

3.—The amount of Moneys received from other sources, distinguishing the same; and the manner in which such Moneys have been expended.

4.—The number of Children taught in the District School during such year.

5.—The number of Children residing in the District on the last day of December previous to the making of such Report, over the age of five years and under the age of sixteen, and the names of the Parents or other persons with whom such Children shall respectively reside, and the number of Children residing with each.

Certain powers of the Trustees as to the School House in their District.

XLIX. And be it enacted, that all sums which shall be raised within any School District for the erection or repair of the Common School House therein, or for the necessary appendages thereto, shall be paid to, and expended and accounted for by the Trustees for such School District, in such manner as shall be appointed in any Bye-law of the Township, Town or City Council; and any School House to be erected as aforesaid, shall be upon ground owned or to be acquired

acquired by the Township, Town or City for that purpose; and the erection and repair of all such Common School Houses, shall be according to the plans and specifications adopted by the Township, Town or City Council, or in the absence of such plans or specifications, the expenditure for the said erection or repairs shall be at the discretion of the said Trustees.

L. And be it enacted, that in case any School District shall be formed out of two or more adjoining Townships, the Trustees thereof shall make their reports to the Superintendent of each of the said Townships; and shall set forth in the said reports the several particulars required by law, as the same may relate to the portions of the School District in each of the Townships, respectively, in such form as shall be supplied by the Chief Superintendent of Common Schools.

Provision as to School Districts extending into more than one Township.

LI. And be it enacted, that in case of such formation of a School District out of two or more adjoining Townships, the amount to be raised for the purpose of the erection and repairs of the Common School House shall be settled by By-laws of the several Townships, respectively; and in case the Township Councils of such Township shall not agree as to the amount so to be raised, the acquirement or position of the ground on which the School House is to be placed, or as to the plan or specifications for the erection or repairs of such School House, the Court of Wardens for the County shall and may, upon the representation of one or more of the Township Councils, pass a Bye-law concerning the matter in dispute, which shall have the same effect within the several Townships concerned as if the same were passed or enacted by the Township Councils, respectively.

Further provisions.

LII. And be it enacted, that it shall and may be lawful for the Council of any Town or City in Upper Canada, aforesaid, by any Bye-law or Bye-laws to be passed in that behalf, to establish within the Town or City one or more Schools in which Children shall be taught gratuitously, or in which a rate of payment for tuition shall be required, or one or more Schools partly free and partly requiring payment for tuition, according to any such Bye-law or Bye-laws.

The Council of any City or Town may establish Free Schools.

LIII. And be it enacted, that if in any Town or City a sum shall be raised and levied upon the whole rateable property therein, or on the rateable property of any portions or parts thereof, to an equal amount with the School money which under this Act would be apportioned to such Town or City according to the population thereof, in aid of the payment of the salary or wages of the Master or Masters of any School or Schools; and if the Town or City Superintendent shall, within the time hereinbefore appointed for making the report of the Township, Town or City Superintendent, make a report of the whole number of such Town or

Such Free Schools to be considered as Common Schools on certain conditions.

or City Schools established under any such Bye-law within his Town or City, the number of Children who shall have been taught in such School, the amount of money which shall have been received during the year previous to the making up such report either from the public money appropriated as aforesaid for such Town or City or from the rates levied or assessed thereon, as well as from any fees or rates of payment for tuition in any such School or Schools, and shall give such other information in such report as shall from time to time be required by the Chief Superintendent of Common Schools, the free and other Schools so established in such Town or City, shall be held and considered as Common Schools within the meaning of this Act, and the public money which would be paid and distributed for the purposes of Common Schools within such Town or City, shall be paid and distributed in aid of the Town or City Schools so established.

Children not to be required to use Religious Books objected to by their Parents.

LIV. And be it enacted, that in the Common Schools or Town or City Schools, established under this Act, no child shall be required to read or study in or from any Religious Book, or to join in any exercise of Devotion or Religion, which shall be objected to by his or her Parents or Guardians.

Separate Schools may be established for the Protestants and Roman Catholics in any locality.

LV. And be it enacted, that in all cases, wherein the Teacher of any such School shall happen to be a Roman Catholic, the Protestant Inhabitants shall be entitled to have a School with a Teacher of their own religious persuasion, upon the application of ten or more resident Freeholders or Householders of any School District, or within the limits assigned to any Town or City School; And in like manner, when the Teacher of any such School shall happen to be a Protestant, the Roman Catholic Inhabitants shall have a separate School, with a Teacher of their own religious persuasion, upon a like application.

Conditions and mode of establishing such separate Schools.

LVI. And be it enacted, that such applications shall be made in writing, signed with the names of each resident Freeholder or Householder, and addressed and delivered to the Township, Town or City Superintendent; and such application shall contain the names of three Trustees, who shall be the Trustees of such separate Schools; and upon the compliance of such Trustees, and of the Township, Town or City Superintendent, with the requirements of this Act, such School shall be entitled to receive its share of the public appropriation, according to the number of Children of the religious persuasion who shall attend such separate School, which share shall be settled and adjudged by the Township, Town or City Superintendent, subject to an appeal to the County Superintendent; and all such separate Schools shall be subject to the visitations, conditions, rules and obligations, provided in this Act with reference to other Common Schools or to other Town or City Schools established under this Act.

LVII.

LVII. And be it enacted, that it shall and may be lawful for the Court of Wardens of any County in Upper Canada, aforesaid, if they deem it proper so to do, to raise and levy by county rate, a sum not exceeding in any year two hundred pounds, and to appropriate and expend the same for the maintenance of one or more County Model Schools within such County, and to constitute by a Bye-law or Bye-laws to that effect any Township, Town or City School or Schools within the County, to be for any term not less than one year such County Model School or Schools: Provided always, that by such Bye-law there shall be appropriated, from the County Rates, for the payment of Teachers and the purchase of books and apparatus for each such School, during every year for which the same shall continue to be a County Model School, a sum not less than forty pounds.

Model Schools may be established in the Counties.

Proviso.

LVIII. And be it enacted, that whenever it shall appear to the satisfaction of the Governor of this Province, that any such Court of Wardens has thus appropriated and expended in any year, for the payment of a Teacher or Teachers and the purchase of books and apparatus for such County Model School or Schools, a sum not less than forty pounds, it shall and may be lawful for the said Governor to issue his warrant to the Receiver General of this Province, directing him to pay to the County Superintendent of such County, as a further aid towards the support of such School or Schools during such year, a sum equal to one half of the amount so raised and expended: Provided always, that there be not thus granted in any year, for the support of such Schools in any one County, a larger sum than fifty pounds, and also that the whole amount thus to be granted, in any year for the support of County Model Schools in Upper Canada, do not exceed five hundred pounds.

Allowance to be granted for such Model Schools on certain conditions

LIX. And be it enacted, that the Chief Superintendent of Common Schools, before making the yearly distribution of the Common School Fund, as hereinbefore provided, shall deduct from the same the aggregate of all amounts thus advanced for the support of County Model Schools during the preceding year.

Such sum to be paid out of the Common School Fund.

LX. And be it enacted, that all moneys to be thus granted from the Common School Fund in aid of County Model Schools, shall be expended by the County Superintendent receiving the same, or by his successor in Office, in the payment of Teachers and the purchase of books and apparatus for such Schools, exclusively, and within the year for which the same shall have been granted; and any such moneys not thus expended, shall be recoverable, with interest and costs, from any County Superintendent into whose hands the same may have passed, or from his sureties or representatives, by a suit at law to be instituted at any time during the year next after that within which the same should have been so expended, by the Chief Superintendent of Common Schools; and it shall be the

How such sums shall be expended.

the duty of the said Superintendent forthwith to institute such suits in his name of Office, at all times when occasion may arise; and any sums so recovered from any County Superintendent, shall be carried by the said Chief Superintendent of Common Schools to the account of the Common School Fund, before proceeding to make his distribution of the same for the year ensuing.

How Teachers shall be appointed for Model Schools.

Regulations for Model Schools

LXI. And be it enacted, that it shall not be competent for the Trustees of any Township, Town or City School, constituted as aforesaid a County Model School, to appoint any person to be a Teacher in the same, unless with the special approval in writing, by the County Superintendent, of their selection of such person as a Teacher, and also of the terms of their engagement with him; nor yet to make any regulations for the internal administration of such School, unless in like manner approved in writing by the said County Superintendent: And the said County Superintendent shall have power at any time to suspend or dismiss any such Teacher if he shall consider it necessary to do so, and to appoint any person to be a Teacher to fill any vacancy which the Trustees may refuse or neglect to fill up within thirty days after he shall have notified them of the same; and also to make and enforce any regulations he may see fit to make for the internal administration of such Schools.

Teachers to be examined by Professors of Normal Schools when established.

LXII And be it enacted, that whenever a Normal School shall have been established and shall be in operation in Upper Canada, no person shall be appointed to be a principal Teacher in any County Model School, who shall not have produced to the County Superintendent a certificate of qualification signed by some one or more of the Professors or Principal Teachers of such Normal School.

Teachers to be instructed gratuitously in Model Schools.

LXIII. And be it enacted, that at every such County Model School gratuitous instruction shall be afforded to all Teachers of Common Schools within the County wherein such Model Schools may be established, during such periods and under such regulations as the County Superintendent may from time to time direct.

City, Town or Township Model Schools may be established.

LXIV. And be it enacted, that it shall and may be lawful for any Township, Town or City Superintendent, subject to the approbation of the Township, Town or City Council, to establish within any Township, Town or City, not having a County Model School established therein, a Township, Town or City Model School; and to appropriate for its support out of the School Fund of such Township, Town or City, a sum in each year not exceeding twenty five pounds over and above the sum to which such School would otherwise be entitled as a Township, Town or City School under this Act: Provided always, that any sum

to

to be so appropriated shall be expended in the payment of a Teacher or Teachers, exclusively.

LXV. And be it enacted, that whenever a Normal School shall have been established and shall be in operation in Upper Canada, no person shall be appointed to be a Principal Teacher in any Township, Town or City Model School, who shall not have produced to the Township, Town or City Superintendent a certificate of qualification, signed by some one or more of the Professors or Principal Teachers of such Normal School.

Teachers to be examined by Professors of Normal Schools when established.

LXVI. And be it enacted, that at every such Township, Town or City Model School gratuitous instruction shall be afforded to all Teachers of Common Schools, within the Township, Town or City, wherein such Model School may be established, during such periods and under such regulations as the Township, Town or City Superintendent may from time to time direct.

Gratuitous instruction to be given in the Model Schools to Teachers.

LXVII. And be it enacted, that the Chief Superintendent of Common Schools shall submit annually to the Governor of this Province, on or before the first day of August in each year, a report of the actual state of the Normal, Model and Common Schools throughout Upper Canada, shewing the amount of Moneys expended on such Schools, and from what sources the same have been derived, with plans for their improvement, and such other statements and suggestions relating to education generally, as the said Chief Superintendent may deem useful and expedient, in order that the same may be laid before the Legislature at the meeting thereof then next following.

Chief Superintendent to report annually to the Governor, on the Normal and Model Schools.

LXVIII. And be it enacted, that no provision in the foregoing enactments, rendering the apportionment of moneys out of the Common School Fund, in any year, conditional upon the making of any Report or the performance of any duty for or during the preceding year, shall apply to or affect the apportionment of any such moneys to be made for the year one thousand eight hundred and forty-four; any thing in the said enactments to the contrary notwithstanding: Provided always, that if no Act be passed during the present Session for constituting Courts of Wardens in the several Counties of Upper Canada, or Township, Town or City Councils in the several Townships, Towns or Cities therein, then, and until an Act be passed for the said purpose, all the powers which by the preceding sections of this Act would be vested in the Court of Wardens for any County, or in the Township Council for any Township, shall be and are hereby vested in the District Council for the Municipal District in which such County or Township may be, and such Municipal District shall be substituted for such County or Township for the purposes of this Act, and all the powers which would be vested in the Town

Certain provisions of this Act not to affect the apportionments of public moneys for 1844.

If no Act be passed in this Session for constituting Courts of Wardens or Councils, the powers, &c. granted by this Act to be vested in existing Municipal Institutions.

Town or City Council of any Town or City, shall be and are hereby vested in the Common Council or Board of Police of such City or Town, or other corporate body exercising municipal authority in and for the same; and the Officers and persons to be appointed by any such District Council, Common Council, Board of Police or corporate body under the powers aforesaid, for the purposes of this Act, shall respectively have the same powers, duties and liabilities as if they had been appointed for like purposes in the manner provided in and by the foregoing sections of this Act.

Interpretation clause.

LXIX. And be it enacted, that the word " Governor " wherever it occurs in this Act, shall include the Governor or any person administering the Government of this Province; and the word " Teacher " shall include a Female as well as a Male Teacher, except when applied to the Teacher of a Normal School or of a Model School, in which case it shall apply to a Male Teacher only.

Commencement of this Act.

LXX. And be it enacted, that the foregoing enactments of this Act shall have force and effect upon from and after the first day of January, one thousand eight hundred and forty-four, and not before.

The Act 4 & 5, V. c. 18, repealed as far as it relates to Upper Canada.

Excepting certain clauses.

LXXI. And be it enacted, that the Act of the Parliament of this Province passed in the Session, held in the fourth and fifth years of Her Majestys reign and intitled, *An Act to repeal certain Acts therein mentioned and to make further provision for the Establishment and maintenance of Common Schools throughout the Province*, shall, upon, from and after the day last aforesaid, be repealed, in so far as relates to that part of this Province called Upper Canada in and with regard to which it shall upon, from and after the said day have no force or effect, excepting always the first, second and third sections of the said Act, and so much of the twenty first section as provides for the due accounting for the application of the moneys appropriated by the second and third sections of the said Act.

C A P . XXX.

An Act to enable Courts of Law, in that part of this Province called Upper Canada, to give relief against adverse claims made upon persons having no interest in the subject of such claims.

[9th December, 1843.]

Preamble.

WHEREAS it often happens that a person sued at Law in Upper Canada for the recovery of Money or Goods, wherein he has no interest, and which

which are also claimed of him by some third party, has no means of relieving himself from such adverse claims, but by a suit in Equity against the Plaintiff and such third party, usually called a Bill of Interpleader, which is attended with expense and delay: for remedy thereof, Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that upon application made by or on the behalf of any Defendant sued in Her Majesty's Court of Queen's Bench for that part of this Province called Upper Canada, or in any of Her Majesty's District Courts in that part of this Province, in any Action of Assumpsit, Debt, Detinue or Trover, such application being made after Declaration and before Plea, by Affidavit or otherwise, showing that such Defendant does not claim any interest in the subject matter of the suit, but that the right thereto is claimed or supposed to belong to some third party who has sued or is expected to sue for the same, and that such Defendant does not in any manner collude with such third party, but is ready to bring into Court or to pay or dispose of the subject matter of the action, in such manner as the Court (or any Judge thereof) may order or direct, it shall be lawful for the Court, or any Judge thereof, to make Rules and Orders calling upon such third party to appear, and to state the nature and particulars of his claim, and maintain or relinquish his claim; and upon such Rule or Order, to hear the allegations as well of such third party as of the Plaintiff, and in the meantime to stay the proceedings in such action, and finally to order such third party to make himself Defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues, and also to direct which of the parties shall be Plaintiff or Defendant on such trial, or, with the consent of the Plaintiff and such third party, their Counsel or Attorney, to dispose of the merits of their claims, and determine the same in a summary manner, and to make such other rules and orders therein as to costs and all other matters, as may appear to be just and reasonable.

When a Defendant is sued in Upper Canada, and has no interest in the suit, a third party being the party really interested, the Court or a Judge thereof may grant relief by ordering such third party to contest the claim in the place of such Defendant, or in such other manner as it may think fit.

II. And be it enacted, that the Judgment in any such action or issue as may be directed by the Court or Judge, and the decision of the Court or Judge in a summary manner, shall be final and conclusive against the parties, and all persons claiming by, from, or under them.

Judgment to be final, as to all parties to the suit.

III. And be it enacted, that if such third party shall not appear upon such rule or order to maintain or relinquish his claim, being duly served therewith, or shall neglect or refuse to comply with any rule or order to be made after appearance, it

If such third party fail to appear or to obey any order of the Court, he

may be barred from ever prosecuting his claim.

And the Court may make such order as shall be right between the Plaintiff and Defendant.

Any order of a single Judge in such matters may be set aside or altered by the Court.

If the Judge applied to shall think it right to refer the matter to the Court, he may do so.

it shall be lawful for the Court or Judge to declare such third party, and all persons claiming by, from, or under him, to be for ever barred from prosecuting his claim against the original Defendant, his Executors or Administrators, saving nevertheless the right or claim of such third party against the Plaintiff; and thereupon to make such order between such Defendant and the Plaintiff as to costs and other matters as may appear just and reasonable.

IV. And be it enacted, that every order to be made in pursuance of this Act by a single Judge not sitting in open Court, shall be liable to be rescinded or altered by the Court, in like manner as other orders made by a single Judge.

V. And be it enacted, that if upon application to a Judge in the first instance or in any later stage of the proceedings, he shall think the matter more fit for the decision of the Court, it shall be lawful for him to refer the matter to the Court; and thereupon the Court shall and may hear and dispose of the same in the same manner as if the proceeding had originally commenced by rule of Court instead of the order of a Judge.

Preamble.

VI. And whereas difficulties sometimes arise in the execution of process against goods and chattels issued by or under the authority of the said Courts, by reason of claims made to such goods and chattels, by persons not being the parties against whom such process has issued, whereby Sheriffs and other Officers are exposed to the hazard and expense of actions, and it is reasonable to afford relief and protection in such cases to such Sheriffs and other Officers; Be it therefore enacted, that when any such claim shall be made to any goods or chattels taken or intended to be taken in execution under any such process, or to the proceeds or value thereof, it shall and may be lawful to and for the Court from which such process issued, upon application of such Sheriff or other Officer, made before or after the return of such process, and as well before as after any action brought against such Sheriff or other Officer, to call before them by rule of Court, as well the party issuing such process as the party making such claim, and thereupon to exercise for the adjustment of such claims, and the relief and protection of the Sheriff or other Officer, all or any of the powers and authorities hereinbefore contained, and to make such rules and decisions as shall appear to be just according to the circumstances of the case; and the costs of all such proceedings shall be in the discretion of the Court.

Where claims shall be made by third parties to goods or chattels taken in execution, the Court may call the parties before them and adjust such claims.

Costs to be in the discretion of the Court.

Rules, &c. made under this Act, to be entered on the Record.

VII. And be it enacted, that all rules, orders, matters and decisions to be made and done in pursuance of this Act, except only the affidavits to be filed, may, together with the declaration in the cause (if any) be entered of record, with a note in the margin expressing the true date of such entry, to the end that the same

same may be evidence in future times, if required, and to secure and enforce the payment of costs directed by any such rule or order ; and every such rule or order so entered shall have the force and effect of a Judgment, except only as to becoming a charge on any Lands, Tenements or Hereditaments ; and in case any costs shall not be paid within fifteen days after notice of the taxation and amount thereof, given to the party ordered to pay the same, his Agent or Attorney, execution may issue for the same by *Fieri Facias* or *Capias ad Satisfaciendum* adapted to the case, together with the costs of such entry and of the execution ; and such writ and writs may bear teste on the day of issuing the same, whether in term or vacation ; and the Sheriff or other Officer executing any such writ shall be entitled to the same fees and no more, as upon any similar writ grounded upon a judgment of the Court : Provided always, nevertheless, that no such writ of *Capias ad Satisfaciendum* shall be sued out upon any such proceeding, except upon a similar affidavit to that required upon the ordinary judgments of such Courts, respectively.

Decisions to have the effect of Judgments.

Exception.

Remedy for costs, if not paid.

Teste of writs.

Fees.

Proviso.
No *Capias ad Satisfaciendum* to issue, except on the usual affidavit.

C A P. XXXI.

An Act to abolish Imprisonment in execution for Debt, and for other purposes therein mentioned.

[9th December, 1843.]

WHEREAS Imprisonment for Debt where fraud is not imputable to the Debtor, is not only demoralizing in its tendency, but is as detrimental to the true interests of the Creditor as it is inconsistent with that forbearance and humane regard to the misfortunes of others which should always characterize the Legislation of every Christian country ; and whereas it is desirable to soften the rigor of the Laws, in that part of this Province called Upper Canada, affecting the relation between Debtor and Creditor, as far as a due regard to the interests of commerce will permit ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the passing of this Act, no person shall be arrested or held to bail, upon any cause of action arising in any foreign country where the defendant would not have been liable to have been arrested or held to bail, had such defendant continued

Preamble.

Limitations of the power of arrest.

nued within the jurisdiction of the Courts of such foreign country, or in any civil suit where the cause of action shall not amount to ten pounds of lawful money of this Province; and where the cause of action shall amount to ten pounds and upwards, it shall not be lawful for the Plaintiff to proceed to arrest the body of the defendant or defendants, unless an affidavit be first made by such plaintiff, his servant, or agent, of such cause of action, and the amount justly and truly due to the said Plaintiff from the said defendant, and also that such Plaintiff, his servant or agent, hath good reason to believe, and doth verily believe that the defendant is immediately about to leave the Province of Canada with intent and design to defraud the Plaintiff of the said debt; and that no person shall be taken or charged in execution in any such action for any sum whatever, whether the party shall originally have been held to bail, or been merely served with common process.

Execution for
debt abolished.

Attorneys.

II. And be it enacted, that it shall not be lawful for any Attorney at Law who swears a Plaintiff to an affidavit of debt, for the purpose of arresting or holding to bail a debtor, to become, or be or act as the attorney of such Plaintiff in any action at law for the recovery of such debt, or any part thereof.

Formalities
required in af-
fidavit.

III. And be it enacted, that it shall not be lawful for any process to issue against a Defendant or Defendants upon any affidavit aforesaid, unless the whole affidavit be read and explained over to the plaintiff or person making the same, and unless it be stated in words at full length in the jurat of such affidavit that the same affidavit was duly read over and explained to the deponent by the Commissioner, or party before whom it is sworn, antecedent to the swearing thereof.

Females ex-
empt from ar-
rest.

IV. And be it enacted, that no female shall be arrested or held to bail by reason of any debt or debts whatever, owed by such female.

Condition
and form of
recognizance
of bail.

V. And be it enacted, that whenever any person shall be holden to bail in any form of action whatever, the recognizance of bail shall be taken in double the sum sworn to, and shall be subject to the condition, that if the defendant or defendants shall be condemned in the action, and shall neglect or refuse to pay the costs and condemnation money, or to appear personally in open Court, or before any Judge or Commissioner of the Court wherein such bail shall be taken, when thereunto required by notice to be left with either of such bail, and with the defendant, or at his or their last place of abode, at least twenty days before the day on which he shall be required to appear, and there to answer such questions or interrogatories as shall be propounded to him touching his lands, tenements, goods, chattels, money, rights, or credits, then and in such case the bail will pay the costs and condemnation money for him.

VI.

VI. And be it enacted, that if such defendant or defendants, upon examination upon oath, either upon interrogatories or *viva voce*, in open Court or before a Commissioner of the Court in which the suit shall be pending, or upon the examination in like manner of any witness or witnesses for either party, shall appear to the said Court to have acted fraudulently, either in the manner of contracting the engagement upon which the recovery shall have been had, or in evading the satisfaction thereof, or if, in causes arising *ex delicto*, the defendant shall neglect to pay the damages and costs recovered in any such action; or if such defendant or defendants shall refuse to make a full discovery of all his or their lands, tenements, goods, chattels, credits and other effects, (and to assign to the plaintiff or plaintiffs the whole or such part thereof as the said Court shall direct, in or towards the satisfaction of the judgment obtained in the said suit,) then, and in either of the said cases, it shall and may be lawful for the said Court to commit such defendant or defendants to the Common Gaol of any District, until he or they shall comply with the order of the said Court, or finally for such period not exceeding one year, as the said Court shall think reasonable in punishment of the fraudulent conduct of which they shall adjudge such defendant or defendants to have been guilty, or in punishment of the tort for which damages shall have been awarded, if they shall deem it proper so to do: Provided always, that such commitment shall not operate as a discharge of the said judgment, but the same shall continue in force in like manner as if the defendant or defendants had not been committed: And provided also, that it shall and may be lawful for the Court wherein any such recognizance of bail shall have been entered in term time, or for a Judge thereof in vacation, after any defendant or defendants shall have submitted to any such examination as aforesaid, or in case no such examination shall be had within two terms after judgment shall have been signed in any such cause, then upon hearing the parties, to order in their discretion an *exoneretur*, to be entered upon such Bailpiece.

Fraudulent or contumacious defendants may be committed to Gaol.

Such commitment not to discharge judgment.

VII. And be it enacted, that should any person have been or hereafter be committed to prison upon any attachment or other process issued by any Court of Law or Equity in Upper Canada for a contempt or otherwise in not paying costs, or any other sum of money directed or decreed to be paid by such Courts, respectively, it shall and may be lawful for such person to give notice to the party at whose instance such attachment or other process shall have issued, that application for his discharge will be made to the Court or a Judge thereof, whence such attachment or other process shall have issued, whereupon it shall be lawful for the party at whose instance he shall have been committed as aforesaid, within ten days after the service of such notice to exhibit Interrogatories to such person so applying for his discharge, or to any witness or witnesses, in like manner as if such party were committed in execution on a judgment as aforesaid.

Procedure on application for discharge from such imprisonment.

VIII.

Interrogatories.

VIII. And be it enacted, that upon such interrogatories being answered, it shall be lawful for such Court or Judge to make such order thereon as if such party had been charged in execution upon a judgment as aforesaid : Provided always, that no such order of such Court or Judge so to be made as aforesaid, shall discharge the party so in custody on such attachment or other process, from the payment of the sum which such party had been directed to pay as aforesaid ; but that the same shall be levied and collected by such process against the lands, tenements, goods, chattels, moneys, rights and credits, as the Superior Courts of Law and Equity shall prescribe in that behalf.

Arrest for costs of suit abolished.

IX. And be it enacted, that no person shall hereafter be arrested or held to bail on any process of attachment for contempt for the non-payment of costs merely, which shall or may be ordered to be paid in the progress of any suit either at Law or in Equity, but that in lieu of any such process, it shall be lawful for Her Majesty's Superior Courts of Law and Equity, to prepare and adapt to the circumstances of the case, such a form of execution, attachment, warrant of distress or other process, against the lands and tenements, goods, chattels, money, debts, credits and effects of any person so ordered to pay such costs, as to such Courts shall seem meet.

Upper Canada Act only.

X. And be it enacted, that this Act shall be deemed and taken to apply to Upper Canada only.

CAP XXXII.

An Act to fix the period for holding the Courts of General Quarter Sessions of the Peace, and District Courts in that part of the Province formerly Upper Canada.

[9th December, 1843.]

Preamble.

WHEREAS it is expedient to alter the periods of holding the several Courts of General Quarter Sessions of the Peace, and District Courts in and for the several Districts of that part of this Province called Upper Canada, and for rendering the periods uniform ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it

it is hereby enacted by the authority of the same, that from and after the first day of January next, the Courts of General Quarter Sessions of the Peace, in and for the several Districts of that part of this Province called Upper Canada, be and are hereby directed to be held on the first Tuesdays in the months of January, April and July, and on the third Tuesday in the month of November, in each and every year, respectively ; any law, usage or custom to the contrary thereof in any wise notwithstanding.

At what periods the Courts of General Quarter Sessions shall be held in Upper Canada.

II. And whereas, from the alteration of the periods for holding the several Courts of General Quarter Sessions of the Peace as aforesaid, the several periods for holding the District Courts in and for the Districts of that part of this Province heretofore Upper Canada, will, under the provisions of the Law, be changed : And whereas writs and processes may have been or may yet issue returnable on a day on which no such District Court under the provisions of this Act will be held, for remedy whereof : Be it enacted, that any writ or process, which hath been or shall be issued, before the first day of January next, from any District Court in that part of the Province heretofore called Upper Canada, and the return day mentioned in any such writ or process be deemed and taken to be as valid and effectual in law to all intents and purposes, as if this Act had not been passed ; and every such writ or process (being a mesne process) shall be taken and considered to be returnable, on the third day of the Term next ensuing the first day of January next, although another and different return day may be stated, in such writ or process which hath been or shall be issued as aforesaid.

Writs or process issued before the 1st January next, to be deemed good and valid, and made returnable in the next term thereafter.

C A P. XXXIII.

An Act to render more summary the means of enforcing the returns of process by Sheriffs and Coroners, in that part of this Province called Upper Canada.

[9th December, 1843.]

WHEREAS it is expedient to facilitate and render more summary the means of enforcing the returns of process by Sheriffs and Coroners in that part of this Province called Upper Canada ; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Govern-*

Preamble.

ment

When a Sheriff or Coroner shall neglect to return process, any Judge of the Court may issue a summons calling on him to shew cause why a writ of attachment should not issue against him.

Proceedings on such summons.

ment of Canada, and it is hereby enacted by the authority of the same, that when any Sheriff or Coroner shall, at any time after the passing of this Act, fail to return any writ to him directed and delivered for execution, which shall have been issued out of Her Majesty's Court of Queen's Bench, or any of the District Courts, within the time when he shall be ordered to return the same by any rule or order of the Court out of which such writ shall have been issued, then, and in every such case it shall and may be lawful to and for a Judge of such Court to grant to the Plaintiff or Plaintiffs, Defendant or Defendants, in the cause in which such writ shall have been issued, a Summons calling upon such Sheriff or Coroner to shew cause why a writ of attachment should not be issued against him; and that the same or any other Judge of the said Court shall have power at the return of such summons, to discharge the said summons, or order a writ of attachment to be issued against such Sheriff or Coroner, or to limit a further period after which such writ of attachment shall be issued unless a return be made in the mean time, or otherwise to order, as to such Judge shall seem proper under the circumstances.

' On failure of the Sheriff or Coroner to comply with the order made after such summons, attachment to issue against him.

II. And be it enacted, that if at the expiration of any further time which such Judge may limit by any order made at the return of such summons, such writ shall not have been returned, it shall and may be lawful to and for any Judge of the Court out of which such writ issued, in vacation, or for the Court in term, upon proof of the service of such order and of the failure of such Sheriff or Coroner to return such writ, to order a writ of attachment to be forthwith issued against such Sheriff or Coroner.

Any Judge to have the same powers as the Court, under *habeas corpus* issued with regard to such Sheriff or Coroner.

III. And be it enacted, that writs of Habeas Corpus may in like manner be issued out of any of the said Courts under the order of a Judge, who shall have the same powers, authority and discretion in issuing any such writ of Habeas Corpus, or in committing any such Sheriff or Coroner to close custody when brought before him upon such writ, or in admitting him to bail, and in all other proceedings which may be had or taken thereupon, as are now possessed by the said Court of Queen's Bench, or any of the said District Courts.

Such writs of *habeas corpus* may be made returnable in vacation—and before whom.

IV. And be it enacted, that all writs of attachment and Habeas Corpus issued against any Sheriff or Coroner, may be returnable on a day certain in vacation, which day shall be fixed by the order of the Judge or the Court under which the same shall be issued, and shall not be more than thirty days from the time of issuing such writ of attachment or Habeas Corpus; and that when any such writ shall be returnable in vacation, it shall be made returnable before the presiding Judge in Chambers when the same is issued out of the said Court of Queen's Bench, and

and when the same is issued out of any of the said District Courts, then before the Judge of the District Court out of which the same is issued.

V. And be it enacted, that any Sheriff or Coroner who shall not return any writ issued out of the said Court of Queen's Bench or any of the said District Courts, within the period of three Calendar months after a writ of attachment for not returning the same shall be executed against him, shall forfeit his office ; and if any Sheriff or Coroner, who shall not have returned any such writ within such period, shall continue after the expiration of such period to exercise the duties of his office without having been duly re-appointed to the same, he shall forfeit and pay the sum of one hundred pounds of lawful money of this Province, to any person who shall sue for the same in any of Her Majesty's Courts of Record, having competent jurisdiction : Provided always, that such action shall be brought within the period of twelve Calendar months after such forfeiture shall have been incurred.

Sheriff or Coroner not returning the process within a certain time after being so attached to forfeit his office.

Penalty if he shall continue to exercise it without being re-appointed.

Proviso.

VI. And be it enacted, that the cost of any proceedings under the authority of this Act to enforce the return of process, shall be in the discretion of the presiding Judge or of the Court, as the case may be, who may order them to be paid by the Sheriff or Coroner against whom the proceedings are had, or by either of the parties in the cause.

Costs under this Act to be in the discretion of the Judge.

VII. And be it enacted, that this Act shall not be construed to interfere with or take away any remedy which existed before the passing thereof.

Act not to interfere with existing remedies.

C A P . XXXIV.

An Act to Repeal a certain Act therein mentioned, and to make further provision for enabling the Provincial Government to purchase the Stock held by private parties in the Welland Canal.

[9th December, 1843.]

WHEREAS, in and by a certain Act of the Parliament of this Province, passed in the fourth and fifth years of the Reign of Her present Majesty, intituled, *An Act to authorize the Stock, held by private parties in the Welland Canal, to be purchased on behalf of the Province*, after reciting that it was desirable to place the Welland Canal under the exclusive control of the Government of this Province, and for that purpose to provide for the purchase from the private Stockholders

Preamble.

Act 4 & 5 V. c. 48, cited.

holders in that work of the stock by them held, and which amounted to the sum of one hundred and seventeen thousand, eight hundred pounds, it was, amongst other things, enacted that it should and ought to be lawful for Her Majesty's Receiver General, upon an order to that effect from the Governor, Lieutenant Governor, or person administering the Government of this Province, to issue such number of debentures as might be required, to the Several Stockholders in in the Welland Canal for a sum equal to the amount of stock held by him or them, and that such debentures should be made redeemable in twenty years from their date, and should bear an interest of two per cent. per annum on the amount for which they might be issued, for the first two years, three per cent. for the third year, four per cent. for the fourth year, five per cent. for the fifth year, and six per cent. for the sixth and following years, which interest and principal sum should be chargeable on and payable out of the public revenues of the Province, and that whenever the tolls collected on the said Canal should annually amount to the sum of thirty thousand pounds, it should be lawful for the Governor, Lieutenant Governor, or person administering the Government to authorize and direct the Receiver General of this Province to issue other debentures to the original Stockholders, or their legal representatives, for such sums as would make up six per centum interest upon the amount of stock by them subscribed and paid for, from the time the same should have been actually paid, which debentures were to be made payable in twenty years from the date thereof, and were to bear interest at the rate of six per centum per annum, payable half yearly out of the public revenues of this Province, and that nothing in the said Act contained should be construed to compel any Stockholder to accept debentures for the stock held by him as aforesaid, or, in case of refusal to receive the same, to deprive him from being paid from the tolls and revenues of the Canal, according to the laws then existing having relation to the said Canal: And whereas, by a certain Act of the Parliament of Upper Canada, passed in the seventh year of the Reign of His late Majesty King William the Fourth, intituled, "*An Act to provide for the permanent completion of the Welland Canal, and for other purposes therein mentioned,*" provision is made for raising, by way of public loan, the sum of two hundred and forty five thousand pounds for the purposes of the said Act, and that the tolls received upon the said Canal, after deducting the amount required for the charges then made thereon by law, or so much thereof as might be necessary, should in the first place be applied to discharge the interest which should accrue upon the said sum of two hundred and forty five thousand pounds, and that the remainder of the income received by the said Company should be divided among the private Stockholders until it should equal six per cent. on the amount of their investments: And whereas, by reason of difficulties arising from the state of the Provincial finances of Upper Canada aforesaid, a small part only of the said sum of two hundred and forty five thousand pounds, was actually raised, and the Canal

Act of U. C. 7,
W. IV. c. 92,
cited.

was

was therefore not completed by means of the said loan : And whereas, the said Canal is in progress of completion by means of other and larger sums of money received for that purpose than the sum provided to be raised under the said Act : And whereas therefore, the circumstances contemplated by the said Act, under which the said private Stockholders were to have received dividends from the income of the said Canal have not arisen and cannot now arise, and it is therefore expedient to repeal the said provision for the payment of such dividends : And whereas, it is represented to be for the interest of the private Stockholders aforesaid that the said first in part recited Act should be repealed, and other provisions enacted in lieu thereof ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council, and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, "*An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,*" and it is hereby enacted by the authority of the same, that the said first in part recited Act, and the said Act of the Parliament of Upper Canada, in so far as the same relates to the division of the income of the said Canal, or any part thereof, amongst the private Stockholders, shall be and the same are hereby repealed, except in so far as the same repeal any former Act or Acts of the Parliament of Upper Canada or of this Province.

The first mentioned Act and part of the second repealed.

II. And be it enacted, that there shall be charged upon the Consolidated Revenue Fund of this Province, for the benefit of the private Stockholders in the said Welland Canal, the sum of one hundred and seventeen thousand eight hundred pounds, currency, of this Province, with interest thereon, from the first day of January, in the year of our Lord one thousand eight hundred and forty-three.

£117,800
charged on the
Revenue Fund
for the private
Stockholders.

III. And be it enacted, that it shall and may be lawful for the Governor of this Province in Council, to direct the Receiver General of this Province to issue such number of Debentures as may be required, to the private Stockholders in the Welland Canal Company, not exceeding the said sum of one hundred and seventeen thousand eight hundred pounds, currency, at a rate of interest not exceeding five per cent. per annum, if the said Debentures and Interest shall be payable in England, or not exceeding six per centum per annum, if the said Debentures and Interest shall be made payable in Canada ; and that the Debentures or other securities to be issued shall bear date the first day of January, in the year of our Lord one thousand eight hundred and forty-three, and the interest thereon shall be payable from thence on the first day of January next succeeding the issue thereof, and from thence half-yearly on the first day of July and the first day of January, in each year, until the principal sum shall be paid, and such principal sum shall be made payable in twenty years from the date of the said Debentures.

Governor in
Council em-
powered to is-
sue certain de-
bentures.

IV.

To whom such debentures may be issued.

IV. And be it enacted, that it shall and may be lawful for the Governor of this Province in Council, to direct the issue of the said Debentures to the private Stockholders according to their respective claims, and such Debentures shall bear the rates of interest above mentioned, and shall be payable either in London or in this Province, as such private Stockholders shall respectively desire, and at such place therein as the Governor in Council shall direct and appoint : Provided always, that nothing in this Act contained shall be held to invalidate or make void any Debentures heretofore issued under the said first in part recited Act.

Such debentures may be substituted in lieu of certain others.

V. And be it enacted, that it shall and may be lawful for the Governor of this Province in Council to direct the substitution of the Debentures to be issued under this Act, in lieu of the said Debentures already issued, upon application of the party holding the same.

A yearly charge made on the Revenue Fund when the Tolls on the Canal amount to £45,000 yearly.

VI. And be it enacted, that so soon after the completion of the said Canal as the tolls received thereon for any one year shall amount to the sum of forty-five thousand pounds, currency of this Province, there shall be charged upon the Consolidated Revenue Fund thereof an amount equal to six per centum per annum on the private stock subscribed from the time the same has been paid in, for the benefit of the private Stockholders aforesaid, or their legal representatives.

New debentures may be then issued.

VII. And be it enacted, that it shall be lawful for the Governor of this Province in Council, at any time after such receipt of tolls, to direct to be issued to such private Stockholders or their legal representatives, Debentures for the amount of their respective claims, bearing interest and payable in the same length of time after their issue, and at the same places, respectively, as if the same were issued under the foregoing provisions of this Act to the private Stockholders aforesaid for the principal sum invested by them.

Certificates issued under former Acts to have a certain effect.

VIII. And be it enacted, that in case any certificate or certificates, or other documents, have been issued to any of the said private Stockholders, or their legal representatives or assigns, signifying that they or any of them are or shall be entitled to receive the back interest mentioned in the said first in part recited Act, or Debentures therefor, those who shall lawfully hold such certificate or other document, shall be entitled to the same payments or Debentures, and to none other than they would be entitled to under this Act if such certificates or other documents had never issued.

CAP. XXXV.

An Act to afford to persons having been Boundary Line Commissioners a more easy and less expensive mode of recovering costs still due on Judgments rendered in that capacity.

[9th December, 1843.]

WHEREAS, by an Act of the Legislature of the late Province of Upper Canada, passed in the first year of Her Majesty's Reign, and intituled, *An Act to authorize the Establishment of Boundary Line Commissioners within the several Districts of this Province*, power was given to the Commissioners appointed under the said Act in any District to issue their Warrant to levy by sale of goods and chattels the costs of any Judgment given by the Board: And whereas, the said Act has expired, and the persons who were Commissioners under the same are unable by any summary proceedings to recover the amount of costs incurred and due and payable on certain Judgments by them rendered, but which cannot, in consequence of the expiration of the Act aforesaid, be recovered, except by action at Law: And whereas it is expedient to afford to the said persons such remedy in the premises, as is just and reasonable; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the persons having been Members of the Board of Commissioners of any District under the aforesaid Act, or any of them, or the Executors or Administrators of any of them, may file their Petition in the District Court of the District of which they were Commissioners, which Petition shall set forth the amount and particulars of the costs, charges and expenses on all the proceedings in any matters in which judgments were actually rendered by them before the expiration of the Act aforesaid, the name of the party or parties liable to pay the same, and the amount payable by each of the said parties, respectively, with his or their respective places of residence, and the nature of the claim or difference with regard to which such costs, charges and expenses were incurred; and if on examination it shall appear just and reasonable, the Court in term time, or any Judge thereof in vacation, on the return of such petition, may order and direct a Writ of Execution to issue out of the said Court, commanding the Sheriff or other proper officer to levy of the goods and chattels of each party, respectively, the amount due by such party, together with such portion of the costs to be taxed in the manner hereinafter provided,

Preamble.

Act of U. C.
1 V. c. 19,
cited.

How Boundary Line Commissioners are to proceed to recover their claims.

Court or Judge may order a writ of Execution to issue.

Proviso—
Copy of petition to be served on parties owing.

provided, as may be payable by such party : Provided it shall appear that a copy of such petition has been served either in person or by leaving the same at the usual place of abode of the person or persons from whom such costs, charges and expenses are sought to be recovered, together with a written notice that on a day to be hereinafter mentioned, at least eight days after the service of such notice, the Court will be moved or the Judge will be applied to, to proceed on the petition in the manner provided by this Act.

Parties owing may plead, and other proceedings to be had thereon.

II. Provided always, and be it enacted, that when the facts alledged in any petition to be filed as aforesaid under the provisions of this Act shall be controverted by any of the parties against whom it shall have been preferred, the answer or objection to the petition shall be made in writing in the form of a plea, to which the petitioner or petitioners may reply or demur, to the end that the matter in dispute may be reduced to an issue in law or fact, and receive a determination by the Court or by a Jury in the manner other issues are determined, and such issue shall be so determined accordingly.

Court or Judge may settle costs.

III. And be it enacted, that the Court or Judge before whom any such petition shall be decided and adjudicated upon, may in his discretion grant or refuse the costs on the application, and if he shall grant the same he shall tax the costs and expenses on the proceedings consequent thereupon, and the portion thereof to be paid by each party, and if the same be not paid shall issue execution therefor against the goods and chattels of the party or parties against whom the decision or adjudication shall be given, and who shall not have paid such costs or the proportion thereof for which they shall be liable.

CAP. XXXVI.

An Act to prevent obstructions in Rivers and Rivulets, in Upper Canada.

[9th December, 1843.]

Preamble.

WHEREAS great inconvenience is occasioned by persons throwing Slabs, Bark, Waste Stuff, and other refuse of Saw Mills, Stumps and Waste Timber or leached ashes into the Rivers and Rivulets in Upper Canada, and it is expedient to prevent the said practice; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted, and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled,

An

*An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada, and it is hereby enacted by the authority of the same, that any person who shall throw into any River, Rivulet or Watercourse, or any owner or occupier of a Mill who shall suffer or permit to be thrown in that part of this Province heretofore known as Upper Canada, any Slabs, Bark, Waste Stuff, or other refuse of any Saw Mill, (except Saw dust), or any Stumps, Roots or Waste Timber or leached ashes, and shall allow the same to remain in such River, Rivulet or Watercourse, shall thereby incur a penalty not exceeding five pounds, currency, and not less than one shilling, currency, for each day during which such obstruction shall remain therein, over and above all damages which may arise therefrom; and that such penalty and damages shall and may be respectively recovered with costs, in a summary way, before any one or more Justices of the Peace, in the manner provided by an Act passed in the fourth and fifth years of Her Majesty's reign, chapter twenty six, intituled, *An Act for consolidating and amending the laws in this Province relative to malicious injuries to property.**

Penalty on persons throwing certain things into Rivers and Rivulets.

Penalty and damages how recovered.

II. Provided always, and be it enacted, that in no such case shall the amount levied exceed five pounds, currency, and costs; and that any party who shall think himself aggrieved by any conviction or decision under this Act, may appeal to the Court of General Quarter Sessions of the District, in the manner and under the conditions and provisions of the Act last above cited, with regard to appeals from convictions and decisions under that Act.

Penalty imposed not to exceed a certain sum.

Appeal given.

III. And be it enacted, that of all pecuniary penalties levied under this Act, one third shall go to the informer, and the other two thirds to the Township in which the offence shall have been committed, and shall be expended in improving the Public Highways therein, and in case of damages to private property arising out of a violation of this Act, the assessed damages shall be paid to the party aggrieved, except in cases where the party shall have been examined in proof of the offence in which case the same shall be applied to the improvement of the public highways in the Township as above provided, any law to the contrary notwithstanding.

Appropriation of penalties.

Assessed damages, how to be applied.

IV. And be it enacted, that in every case of conviction under this Act, when the sum which shall be forfeited for the amount of injury done, or which shall be imposed as a penalty, together with the costs, shall not be paid at the time stated in the conviction, or appealed from, it shall be lawful for the convicting Justice to issue his warrant of distress, and in case there shall not be sufficient goods and chattels found to satisfy the same, to commit the offender to the common gaol of the respective County or District, until the fine or damages (as the case may be) and costs, be paid, not however, exceeding thirty days.

Damages if not paid, the party injuring to be imprisoned.

V.

Duration of
this Act.

V. And be it enacted, that this Act shall be and remain in force for the full term of four years from the passing thereof, and from thence until the end of the then next Session of the Provincial Parliament, and no longer.

C A P . XXXVII.

An Act to explain an Act passed in that part of this Province called Upper Canada, in the third year of the Reign of Her Majesty, intituled, *An Act to confirm and regulate certain sales of lands, for taxes, in the Ottawa District.*

[9th December, 1843.]

Preamble

WHEREAS doubts have arisen as to the true construction and meaning of an Act passed in that part of this Province called Upper Canada, in the third year of the Reign of Her Majesty, intituled, *An Act to confirm and regulate certain sales of land, for taxes, in the District of Ottawa* ; And whereas it is necessary that the meaning and intent of the said recited Act should be declared ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the estate and title to all the lands sold by the Sheriff of the Ottawa District, on which the taxes due thereon previous to the sale thereof, with twenty per cent., were paid or tendered to the Treasurer of the said District, within two years from the date of the advertisement of the said lands by the said Sheriff, pursuant to the said recited Act, is and shall be in the person or persons in whom the same was at the time of the said sale, or in his or her heirs : Provided always, nevertheless, that in all cases where the said taxes, with twenty per cent. as aforesaid, were only tendered to the said Treasurer, and not received by him, the amount due on the said lands, up to the time of the said sale, with twenty per cent. shall be paid to the said Treasurer within six months after the passing of this Act.

The estate
in lands, on
which the tax-
es were ten-
dered within a
certain time,
shall be in the
parties in
whom it was
at the time of
the sale.

Preamble.

CAP. XXXVIII.

An Act to confirm and make valid certain Official Acts in the Offices of Registrar, Clerk of the Peace, Clerk of the District Court, and Registrar of the Surrogate Court, in and for the District of Ottawa.

[9th December, 1843.]

WHEREAS the late Richard Phillips Hotham, Esquire, departed this life while absent from this Province, on or about the tenth day of October, in the year of our Lord one thousand eight hundred and forty, he holding at that time the offices and appointments of Registrar for the Counties of Prescott and Russell, Clerk of the Peace for the Ottawa District, Clerk of the Ottawa District Court, and Registrar of the Surrogate Court of the said District; And whereas Donald McDonald, of Fort William, who, at the time aforesaid, held the appointment of Deputy of the said Richard Phillips Hotham in the said several offices, hath performed sundry Official Acts under colour of his authority as such Deputy, after the decease of his said Principal, which for the quiet and security of Her Majesty's liege subjects in the said District and elsewhere, it is expedient and necessary to confirm and make valid; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that all the Official Acts and Deeds done and performed by the said Donald McDonald, under colour of his said authority as the Deputy of the said Richard Phillips Hotham, deceased, in the above mentioned offices, respectively, from the day of the decease of the said Richard Phillips Hotham, until his successors in the said offices assumed the duties thereof, respectively, shall be and the same are hereby confirmed and made valid in like manner, and to the extent as if the authority of the said Donald McDonald, as such Deputy as aforesaid, had not until then determined.

Preamble.

Official Acts
of Donald Mc-
Donald con-
firmed.

II. And be it enacted, that it shall and may be lawful for the said Donald McDonald to receive to his own use, all legal and customary fees and charges for all official services which he may have performed during the said period, acting as aforesaid in the said offices.

Donald Mc-
Donald to re-
ceive the emo-
luments on
such services.

C A P.

CAP. XXXIX.

An Act to divide the Township of Hawkesbury, in the Ottawa District,
into two Townships

[9th December, 1843.]

Preamble.

WHEREAS the Inhabitants of the Township of Hawkesbury, in the Ottawa District, have, by their Petition to the Legislature, represented, that by reason of the extent and the peculiar local circumstances of the said Township, it would be of advantage that the same should be divided into two Townships in the manner hereinafter mentioned, and it is expedient to grant the prayer of the said Petitioners ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said Township of Hawkesbury shall be and is hereby divided for all purposes whatsoever, into two Townships, the one to be called the Township of East Hawkesbury, and the other to be called the Township of West Hawkesbury ; and the said Township of East Hawkesbury shall include and consist of all that part of the present Township of Hawkesbury lying between the Eastern boundary thereof and the Western line of the Lots Number Thirty-Seven in each of the Concessions from the River Ottawa to the rear Line of the said Township ; and the remainder of the said Township shall form the said Township of West Hawkesbury.

The Town-
ship of
Hawkesbury
divided into
two Town-
ships.

CAP XL.

An Act to amend the Act relating to the Boundary Line between the
Niagara and Gore Districts.

[9th December, 1843.]

Preamble.

WHEREAS doubts have arisen as to the true construction of certain parts of the Act of the Legislature of the late Province of Upper Canada, passed in the fifty-sixth year of the Reign of his late Majesty, King George the Third, and intituled, *An Act to grant and form a new District out of certain parts of the Home and Niagara Districts, to be called the District of Gore*, which relate to the Boundary Line between the Districts of Niagara and Gore, and it is expedient to re-
move

move such doubts by defining more accurately the said Boundary Line; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the present Division Line between the Townships of Oneida and Seneca, in the District of Niagara, and the Townships of Tuscarora and Onondaga, in the District of Gore, shall form and be a part of the Boundary Line between the said District of Niagara and the said District of Gore; any thing in the Act cited in the Preamble to this Act, to the contrary notwithstanding.

The line between certain Townships, to be the line between the Districts of Niagara and Gore.

CAP. XLI.

An Act to declare a debt contracted by the Committee of Magistrates of the Johnstown District, to enable them to complete the new Gaol and Court House of said District, to be a debt payable by the District Council.

[9th December, 1843.]

WHEREAS the Building Committee or persons appointed by the Justices of the Peace of the District of Johnstown, to contract in the name and on the behalf of the Inhabitants of the said District, for the building of a Gaol and Court House, and to superintend the same, under an Act of the Parliament of the late Province of Upper Canada, passed in the first year of Her Majesty's Reign, and intituled, *An Act to authorize the erection of a Gaol and Court House at Brockville, in the District of Johnstown*, have by their Petition represented that the said Gaol and Court House are now completed, and that in order to complete the same according to the plan approved by the Commissioners appointed under the Act of the said Parliament, passed in the first year of Her Majesty's Reign, and intituled, *An Act to regulate the future erection of Gaols in this Province*, they have been obliged to expend a sum exceeding the sum of seven thousand five hundred pounds mentioned in the Act first above cited, and to raise money by loans in order to meet such expenditure, and have prayed that provision be made for the payment of the debts so by them contracted: And whereas it is right that the said debts, if found to have been contracted for the benefit of the said District, should be assumed by the District Council and paid out of the funds thereof; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and

Preamble,

U. C. 1 V. c.
38 cited.

U. C. 1 V. c.
5 cited.

The District Council of the Johnstown District may assume certain debts contracted by the Building Committee for the new Gaol and Court House.

Act of Canada 4 & 5 V. c. 10.

Proviso.

and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that all debts legally contracted by the said Building Committee for the purpose of raising money to enable them to complete the said Gaol and Court House according to the plan so approved as aforesaid, and not exceeding in the whole the sum of one thousand pounds, currency, over and above the sum of seven thousand five hundred pounds mentioned in the Act herein first above cited, shall be and are hereby declared to be debts which may be lawfully assumed by the District Council of the said District of Johnstown, and paid out of the funds of the District, and being so assumed shall be deemed to form part of the third charge upon the funds, mentioned in the fifty-ninth section of the Act of the Parliament of the Province of Canada, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to provide for the better internal Government of that part of this Province which formerly constituted the Province of Upper Canada, by the establishment of Local or Municipal Authorities therein*: Provided always, that the due application of all the Monies borrowed and expended by the said Building Committee, shall be accounted for in the same manner as if the borrowing and expenditure thereof had been authorized by the Act herein first above cited.

C A P. XLII.

An Act for better defining and establishing the Eastern boundary line of the third Concession of the Township of Cornwall, in the Eastern District.

[9th December, 1843.]

Preamble.

WHEREAS doubts have arisen as to the correctness of the original Survey of the Township of Cornwall, or parts thereof, owing to the effect of extraordinary local attraction on the compass, or great carelessness of the Surveyor, or both, at the Eastern or governing boundary line of this Township in the third Concession, by which a very great turn or bend is made in the line, inclining it very much to the East; And whereas a straight line, joining the front and rear angles of this Concession at the Eastern boundary, bears almost two degrees more easterly than the side lines of the other Concessions of this Township, as is shewn by a Survey recently made by order of the Boundary Line

Line Commissioners, who have established stone monuments at the angles of the different Concessions of the Township, and most of the inhabitants of the said third Concession having settled in the rear thereof, where all their clearings and improvements now exist; And whereas it would be ruinous to the said inhabitants of the third Concession, should the side lines in the said third Concession, be run according to the course of its eastern or governing boundary (namely two degrees more easterly) than the course of the lines formerly laid down, and it would cause the utmost loss, inconvenience and confusion by moving the roads and throwing the barns, orchards, houses and fences of each person upon his neighbour; And whereas it appears that most of the Surveyors who have run lines in the said third Concession of Cornwall, have run them according to the line run by the Surveyor, Jeremiah M'Carthy, at the Eastern Boundary; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the line run by Jeremiah M'Carthy, dividing the third Concession of Cornwall from the St. Regis Indian Reservation, is and shall be the Eastern and governing line of the said third Concession of the Township of Cornwall, and all side lines in the said Concession shall be governed thereby; any law, usage or custom to the contrary in anywise notwithstanding.

The line run by Jeremiah McCarthy to be the governing line of the said third Concession of Cornwall.

CAP. XLIII.

An Act to Naturalize Cyprian Morgan and others.

[9th December, 1843.]

WHEREAS Cyprian Morgan, of the Township of Yonge, in the District of Johnstown, Farmer; the Reverend Abijah Blanchard, of the Township of Pelham, in the District of Niagara, Presbyterian Minister; John F. A. S. Fayette, of the Town of Brantford, in the District of Gore, Presbyterian Minister; Albert G. Alexander, of the Township of Hamilton, in the District of Newcastle, Schoolmaster; Alexis Chandler, of the Township of Caledonia, in the District of Ottawa, Yeoman; Jacques Adrian Pierre Barbier, of the Town of Kingston, in the Midland District, Gentleman, and Euphrasie Barbier, his wife, have, by their respective Petitions in that behalf, represented their desire to establish their abode in

Preamble.

Cyprian Morgan, Abigah Blanchard, J. F. A. S. Fayette, Albert G. Alexander, Alexis Chandler, J. A. P. Barbier, and Euphrasie Barbier, naturalized, and the rights of natural born subjects conferred on them.

in this Province, and for the removal of the disabilities under which they labor, as aliens, and have prayed that they may be, respectively, naturalized as subjects of Her Most Gracious Majesty ; And whereas it seems meet that the prayer of the said Petitioners be granted ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said Cyprian Morgan, Abijah Blanchard, John F. A. S. Fayette, Albert G. Alexander, Alexis Chandler, Jacques Adrian Pierre Barbier, and Euphrasie Barbier, his wife, shall be deemed, adjudged and taken to be, and so far as respects their capacity, respectively, at any time heretofore, to take, hold, possess, enjoy, claim, recover, convey, devise, impart or transmit any Real Estate in this Province, or any right, title, privileges or appurtenances thereto belonging, or any interest therein, and in all other respects whatsoever to have been, respectively, natural born subjects of Her Majesty, and of Her Royal Predecessors, to all intents, constructions and purposes whatsoever, as if they had been, respectively, born within this Province: Provided always, that each of the persons aforesaid, in order to be entitled to the benefit of this Act, shall take and subscribe the oath hereinafter inserted, or being of the persons allowed to affirm, have made the affirmation hereafter mentioned, before some person duly authorized to administer the oath contained in an Act of the Parliament of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to secure to and confer upon certain Inhabitants of this Province, the civil and political rights of natural born British Subjects*, and that such oath or affirmation so taken and subscribed shall be entered in the Book of Registry kept by the person so authorized to administer such oath or affirmation, under the provisions of the Act hereinbefore mentioned.

The oath to be taken.

II. And be it enacted, that the persons hereinbefore mentioned, shall severally take and subscribe the following oath :—" I, A. B., do sincerely promise and swear " (or affirm, as the case may be,) that I will be faithful, and bear true allegiance " to the Sovereign of the United Kingdom of Great Britain and Ireland, and of this " Province, as dependent thereon : So help me God."

Act to be a Public Act.

III. And be it enacted, that this Act shall be a public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace, and all others whom it shall concern, without being specially pleaded.

CAP. XLIV.

An Act to authorize the Mayor, Aldermen and Citizens of Montreal to purchase, acquire and hold the property now known as the Montreal Water Works.

[9th December, 1843.]

WHEREAS the Corporation of the Mayor, Aldermen and Citizens of the City of Montreal, incorporated by law, have, by their humble petition, addressed to the several branches of the Legislature, represented their having negotiated with "the Proprietors of the Montreal Water Works," incorporated by the Act of the Legislature of the late Province of Lower Canada, passed in the forty-first year of the Reign of His late Majesty King George the Third, for the purchase of the said Water Works, including the whole of the property, moveable and immoveable, connected therewith, and have concluded an agreement with the said Proprietors for the purchase thereof, for the sum of Fifty Thousand Pounds, currency, payable in Debentures or Corporation Bonds, redeemable on or before the first day of November, one thousand eight hundred and sixty-eight, and bearing interest payable semi-annually at the rate of six per cent. per annum; And whereas the said Corporation have not funds at their disposal, or which they are now empowered by law to raise, sufficient to effect the said purchase, unless they suspend all the public works and improvements now requisite in the said City; And whereas under the provisions of the Ordinance of the Governor and Special Council of the late Province of Lower Canada, incorporating the said Mayor, Aldermen and Citizens, it is enacted that it shall not be lawful for the Council of the said City of Montreal to borrow, on the credit of the said City at one time, any sum or sums of money exceeding the aggregate amount of the revenue of the said City for five years, and that no sum or sums of money shall be so borrowed, while the said City shall be in debt to such aggregate amount, unless the said Council shall be authorized in this behalf by an Act of the Legislature of this Province; And whereas the said intended purchase will be greatly profitable to the City and highly beneficial to its inhabitants by enabling them to obtain a plentiful supply of pure and wholesome water at greatly reduced rates from those at present exacted by the said "Proprietors of the Montreal Water Works;" And whereas it is expedient to grant the prayer of the said Corporation as aforesaid, for authority to complete the said intended purchase on the terms in their said petition and hereinafter specially set forth; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act

Preamble.

The Corporation of the City of Montreal, after certain notice, authorized to make the purchase of "the Montreal Water works" from the proprietors thereof incorporated by Act 41 Geo. III, c. 10, with all the moveable and immoveable property thereunto belonging and all rights, authorities and privileges now enjoyed by the said proprietors, for the sum of £50,000 currency.

Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall and may be lawful for the said Corporation of the Mayor, Aldermen and Citizens of the said City of Montreal, on or after the first day of January next, provided due notice be given by the Council of the said City at least ten days prior to the now next annual election that the final purchase of the said Water Works will be a question to be decided by the City Council, one month subsequent to the said annual Election, if they shall then deem it expedient, to make and perfect the purchase from "the Proprietors of the Montreal Water Works" or their representatives, incorporated under an Act of the Parliament of the late Province of Lower Canada, passed in the forty-first year of the Reign of His late Majesty King George the Third, intituled, *An Act for supplying the City of Montreal, and the parts thereunto adjacent, with Water*, of all such buildings, houses, sheds, engines, water houses, reservoirs, reservatories, water wheels, fire engines, machinery, working gears, cisterns, ponds, basins of water, main pipes, rider pipes, stand pipes, service pipes, conduct pipes, branches of iron, lead or other metal, plugs, cocks, chambers, cocks in common, stop cocks, stop backs, valves, fire plugs, air plugs, fire cocks, boxes, forcing mains, ferrils, feeders, campirs, drains, pumps, sluices and other works, devices or things; and generally all moveable or immoveable property connected with or belonging to the said Montreal Water Works, situated, lying, or being within the said City of Montreal or in the vicinity thereof, or requisite and necessary for the support and maintenance of the said Water Works, as also all lead, leaden and other pipes, brass cocks, fuel, tools and materials of every description, now possessed by the said "Proprietors of the Montreal Water Works," or appertaining to the establishment thereof, or that may have been ordered for the use of the said Water Works and not yet in their possession, together with all rights, privileges, powers and authority heretofore or now vested in or possessed by the said "Proprietors of the Montreal Water Works," under the Act aforesaid, at and for a sum, price or purchase money not exceeding Fifty Thousand Pounds, current money of this Province, to be payable in the manner hereinafter mentioned.

After such purchase, all the powers, privileges, rights, titles and interest to the moveable and immoveable property connected with the Montreal Water Works,

II. And be it enacted, that from and after the completion of the intended purchase, sale, transfer and conveyance as aforesaid, by and to the Corporation first above mentioned, all the powers, privileges and authority given and conferred upon, or possessed or enjoyed by the said "Proprietors of the Montreal Water Works," and all the property and possession of the said Water Works, in and by virtue of the said Act of the Parliament of the late Province of Lower Canada, incorporating the same; or in and by virtue of any other Act or Acts whatsoever relating to the same, shall be transferred, conveyed, made over to and conferred upon,

upon, possessed and enjoyed by the said Corporation first above mentioned in as full and effectual a manner as if the same were herein more specifically detailed, and all the powers, rights, title, interest, privileges or claim, of the said "Proprietors of the Montreal Works," to, in, or upon all or any part of the said moveable and immoveable property, or for supplying the said City or the parts thereunto adjacent, with good and wholesome water, and all powers and authority heretofore and now possessed, enjoyed or claimed by them for that purpose, shall from thenceforth be vested in and belong to the Corporation, first above mentioned, and shall be managed by the Council of the said City as other property of the said Corporation, subject always to the provisions of this Act.

and for supplying the City with water, to be transferred to and vested in the said Corporation.

III. And be it enacted, that it shall and may be lawful for the said Corporation of the Mayor, Aldermen and citizens of the City of Montreal, after effecting the intended purchase as aforesaid, by any By-law to be hereafter passed in the manner provided by the said Ordinance incorporating the Inhabitants of the said City or by any Act that may hereafter be passed for the same purpose, and they are hereby authorized and empowered to improve, alter or remove the said Water Works, or any part or parts thereof, and to change the site of the several engines and place or sources of supply thereof, and also by themselves, their Agents, Deputies, Officers, Workmen, Servants or Assistants, from time to time to erect, construct, repair, and maintain any where within twelve miles from the nearest limits of the said City, all such buildings, houses, sheds, engines, water houses, reservoirs, reservatories, water sheds, fire engines, machinery, working gears, cisterns, ponds and basins of water, and the other works, devices and things hereinbefore recited in such manner and of such construction as they shall think necessary, proper or expedient for forcing, conveying and conducting, into and throughout the whole of the said City and the parts thereunto adjacent, or conducive to the existence, improvement or continuance of the said Water Works; and for effecting the foregoing or any other purpose or purposes connected with the said Water Works, it shall and may be lawful for the said Corporation, and they are hereby authorized and empowered to purchase, hold and acquire any lands, tenements and immoveable estate, servitudes, usufruits, hereditaments, or other real property of any description, within the said City of Montreal or in the vicinity thereof, not distant more than twelve miles from the limits of the said City, which shall or may be necessary for the said Water Works, or for improving, altering, enlarging or extending the same; saving nevertheless to the Seigneur or Seigniors within whose *censive* the said lands, tenements, immoveable estate, hereditaments or other real property as aforesaid, so purchased, may be situate, his or their several and respective rights that may become legally due upon the commutation of the tenure of such lands and tenements, which commutation it shall be the duty of the said Corporation to effect with the least possible delay, and also

The Corporation may improve, alter, or remove the said Water Works, may acquire additional real estate for that object, or dispose of that now by them enjoyed or possessed.

also to sell and dispose of any lands, tenements or immoveable estate now possessed by the said Mayor, Aldermen and Citizens as aforesaid, or that may be hereafter purchased, acquired or possessed by them, if deemed requisite so to do for the purposes of the said Water Works.

Corporato
bodies and all
other persons,
authorized to
sell any real
estate required
by the Corpo-
ration under
this Act and
indemnified
for the same.

IV. And be it enacted, that it shall and may be lawful for all Bodies Politic or Corporate or Collegiate Corporations, aggregate or sole, Communities, Husbands, Tutors or Guardians, Curators, *grêvês de substitution*, and all Executors, Administrators and other Trustees or persons whatsoever, who are, or shall be seized or possessed of, or interested in, any lands, tenements, immoveable estate, servitudes, usufruit and hereditaments, or other real property, within the said City, or within twelve miles thereof, which may be selected and desired by the said Corporation for the purposes of the said Water Works, after the purchase thereof as aforesaid, not only for and on behalf of themselves, their Heirs and Successors, but also for, and on behalf of, all persons whom they represent, or for whom, or in trust for whom, they are, or shall be seized, possessed or interested as aforesaid, whether Minors or issue unborn, Lunatics, Idiots, *Femes Covert*, or other person or persons, to contract for, bargain, sell and convey such lands, tenements, immoveable estate, servitudes, usufruit and hereditaments or other real property, and such contracts, sales, agreements, assurances and conveyances so to be made, shall be valid and effectual in law, to all intents and purposes whatsoever, any law, statute, usage or custom to the contrary notwithstanding; and all bodies politic, corporate or collegiate, communities, corporations and persons whatsoever, so contracting, selling or conveying as aforesaid, are hereby indemnified for, and in respect of any such sale, which he, she or they, shall respectively make, by virtue of, or in pursuance of this Act; securing always the rights of any person or party, to the whole, or any part of the purchase money, to be paid by the said Corporation, for any real property purchased, as aforesaid.

Corporation
may take and
enter upon any
land, being
private prop-
erty required
for the purposes
of this Act, after
payment or
tender of the
value thereof.

V. And be it enacted, that the said Corporation shall have full power notwithstanding any law to the contrary, to take and enter into, after paying, tendering or depositing the value thereof, such land, ground or real property of any description lying within the said City or within twelve miles of the limits thereof not belonging to the Crown or vested in any officer, person or body for the public uses of the Province as may be necessary for enabling the said Corporation to carry this Act fully into effect, according to the true intent and meaning thereof, in the same manner, and under the same provisions, limitations and conditions, as if such land, ground, or real property lay within the City of Montreal and were required for opening a new Street or for any other purpose for which the said Corporation may lawfully take and enter into land, ground, or real property within the said City after paying, tendering or depositing the value thereof; and it shall be lawful
for

for the Governor or person administering the Government, in Council, if he shall deem it expedient, and on such terms and conditions as to him shall seem meet, to grant or lease to the said Corporation such portion of the Beach or Ground covered by the Waters of the River Saint Lawrence or other River, or of any other lands of the Crown, or such right or privilege of using the stream or water of any such river, as may be necessary to enable the said Corporation, more fully to carry this Act into effect; any Act or law to the contrary notwithstanding.

Governor in Council may grant or lease to the Corporation any Beach lots, or Crown lands, or right of using water of any stream.

VI. And be it enacted, that it shall be lawful for the said Corporation, and their Agents, Deputies, Officers, Workmen, Servants and Assistants, to dig, break up, and remove the soil, posts, sewers, drains, pavements and gravelled ways, of any of the public highways, roads, streets, squares, hills, market places, lanes, open areas, alleys, yards, courts, waste grounds, footways, quays, bridges, gates, gateways, closes, ditches, walls, precincts and other passages and places within the said City, and within twelve miles of the limits thereof, doing no unnecessary damage in the premises, and to enter into, and make use of, any private lands or grounds, within the said City and within twelve miles of the nearest part thereof, and to dig and sink branches, and lay and drive pipes, and put, fix and establish stop cocks, fire plugs, air-cocks and branches from such Pipes, and to widen common passages, for the laying and fixing such pipes, and all such matters and things as aforesaid, in such places and in such manner, as they shall judge necessary, for conveying the water to the respective houses, offices and other tenements of the said inhabitants of the said City, and the parts thereunto adjacent, and from time to time, as occasion may require, to alter the position of, and to repair, relay and maintain such pipes, stop-cocks, plugs, machinery, conduct-pipes, devices, matters and works aforesaid, and to do and perform all such other Acts, as shall from time to time be necessary or proper, for completing, amending, repairing, improving, and using the works already made or provided, or to be made, done or provided, for the purposes aforesaid: Provided always, that it shall not be lawful for the said Corporation, or any person acting under their authority, to enter into and make use of any private lands or grounds within the limits of, the said City, and within twelve miles thereof, without the consent of the owner or owners thereof, except after paying, tendering or depositing the value thereof, as hereinbefore provided: And provided also, that the respective persons, who shall open and break up, or cause to be opened, or broken up, any ground, for laying, taking or repairing, any pipe, or other work, as aforesaid, by virtue of this Act, shall, and they are hereby required to take care, as far as may be, to preserve a free and uninterrupted passage through any street, lane, alley, road, square, public place, highway or other places, while the works are in progress, and to cause the trenches to be filled in, and the pavement or ground made in as good a condition as before the commencement of the work, without any unnecessary delay,

The Corporation authorised to open streets and erect works for conducting the water.

Corporation not to make use of private property without consent of the owner.

Grounds opened for the laying of pipes, and trenches to be filled, and the pavements made good.

delay, and the rubbish occasioned thereby to be carried away as soon as reasonably may be, and in the meantime, to cause the place where the ground shall be opened or broken up, as aforesaid, to be fenced or guarded with lamps or with watchmen during the night, so that the same may not be dangerous to passengers, upon pain of forfeiting for every neglect, to any person suing for the same, in a summary manner before any Justice of the Peace for the District, on the oath of one credible witness other than the party suing, a sum not exceeding five pounds, current money of this Province, over and above all such damages, as may be recovered against the said Corporation in any Civil action.

When buildings are possessed by different proprietors or tenants, how the Corporation is to act, making satisfaction for all damages.

VII. And be it enacted, that where there are buildings within the said City, or the parts adjacent thereto, the different parts whereof shall belong to different proprietors, or shall be in possession of different tenants or lessees, the said Corporation shall have power to carry pipes to any part of any building so situate, passing over the property of one or more proprietors, or in possession of one or more tenants, to convey the water to that of another, or in the possession of another, the pipes being carried up and attached to the outside of the building, and also to break up and uplift all passages which may be a common servitude to neighbouring proprietors, and to dig and cut trenches therein for the purposes of laying down pipes or taking up and repairing the same, the said Corporation doing as little damage as may be in the execution of the powers granted by this Act, and making satisfaction to the owners or proprietors of buildings or other property, for all damages to be by them sustained in or by the execution of all or any of the said powers; subject to which provisions this Act shall be sufficient to indemnify the said Corporation or their servants or those by them employed, for what they or any of them shall do in pursuance of the powers granted by this Act.

Water Works so to be situated as not to endanger the public health or safety.

Corporation to be liable to prosecution for public or private nuisance.

VIII. And be it enacted, that the said Corporation shall so maintain or locate their Water Works and all apparatus and appurtenances thereunto belonging and appertaining or therewith connected, and wheresoever situated as in no wise to endanger the public health or safety: Provided always, that nothing in this Act contained shall prevent the said Corporation, their Officers, Servants or Workmen from being prosecuted for public or private nuisance arising from the said Water Works, or any apparatus or appurtenances thereof, wheresoever situated, or from any neglect or want of skill on the part of the persons employed by the said Corporation, or to prevent the effect of any sentence or judgment lawfully rendered upon any such prosecution.

Penalty on procuring water without the consent of the

IX. And be it enacted, that if any person or persons shall lay or cause to be laid any pipe or main to communicate with any pipe or main belonging to the said Corporation, or in any way obtain or use its water without the consent of the

the said Corporation, he or they shall forfeit and pay to the said Corporation the sum of twenty five pounds current money of this Province ; and also, a further sum of one pound for each day such pipe or main shall so remain ; which said sum, together with costs of suit in that behalf incurred, may be recovered by civil action in any Court of Law in this Province, having civil jurisdiction to that amount.

Corporation,
from their Wa-
ter Works.

X. And be it enacted, that in order to preserve the water now or hereafter to be conveyed into the said City, and the parts thereunto adjacent, clean and wholesome, if any person shall bathe or wash, or cleanse any cloth, wool, leather, skins, animals, or any noisome or offensive thing in any of the reservoirs, cisterns, ponds, sources or fountains, from which the water to supply the said City is to be obtained or conveyed, or cast, throw or put any filth, dirt, dead carcasses, or other noisome or offensive things therein, or cause, permit, or suffer the water of any sink, sewer or drain to run or be conveyed into the same, or cause any other annoyance to be done to the water therein, every such person shall, on conviction thereof before any Justice of the Peace of the District, on the oath of one credible witness, be by the said Justice before whom such person shall be tried or convicted, adjudged and condemned to pay a penalty for every such offence, not exceeding five pounds, current money of this Province, one half to be applied to the use of the said Corporation, and the other half to him or her who shall sue for the same, and in case the party suing for the same shall be the Corporation itself, or any of their Officers or Servants, then the whole of the said penalty shall be applied to the uses of the said Corporation, and the said Justice may also in his discretion further condemn such person to be confined in the Common Gaol of the District for a space of time not exceeding one month, as to such Justice may seem meet.

Penalties on
persons pollut-
ing waters in
reservoirs.

XI. And be it enacted, that if any person or persons shall wilfully or maliciously hinder, obstruct, embarrass or interrupt the said Corporation, their Agent or agents, Officers, Workmen, Servants or Assistants, or any of them, in making, erecting, repairing or doing or performing any of the works aforesaid, or in the exercise of any of the powers and authorities by this Act granted, or shall break up, pull down, take away, put out of order, destroy, damage, or injure, any engine, water-house, pipe, plug or other works, or any matter, apparatus, device, or thing already made or provided, or which shall be made or provided for the purposes aforesaid, or any of the materials used or provided for the same or ordered to be erected, laid down or belonging to the said Corporation in connexion with the said works, or shall in any wise wilfully do any other injury or damage for the purpose of obstructing, hindering, interrupting or embarrassing the construction, completion, maintaining or repairing of the said works, or in any

Penalty on
persons da-
maging or in-
juring pipes.
or other works.

any wise cause or procure the same to be done, every person or persons so offending shall, for every such offence, forfeit and pay to the said Corporation the amount of damages sustained by means of such offence or injury, to be recovered by the said Corporation, with costs of suit, by action of debt before any competent Court or Tribunal within this Province.

Corporation
may make By-
laws for the re-
gulation, main-
tenance and
protection of
the Water
Works.

XII. And be it enacted, that it shall and may be lawful for the said Corporation as aforesaid, and they are hereby authorized and empowered to make such By-laws as to them shall seem requisite and necessary, for prohibiting, by fine not exceeding five pounds, currency, or imprisonment not exceeding one month, any person being occupant, tenant or inmate of any house, supplied with water from the said Water Works, from vending, selling, or disposing of the said water,—from giving it away, or permitting it to be so taken or carried away, or from using or applying it to the use or benefit of others, or to any other than to his, her or their own use or benefit, or increasing the supply of water agreed for with the said Corporation, or wrongfully, negligently or improperly wasting the water, for regulating the time, manner, extent and nature of the supply of water to be provided and supplied by the said works, the tenement or parties to which and whom the same shall be furnished, the price or prices to be exacted therefor, the time and mode and circumstances of payment therefor, and each and every other matter or thing, relating to or connected therewith, which it may be necessary or proper to direct, regulate or determine for issuing to the inhabitants of the said City, a continued and abundant supply of pure and wholesome water, and to prevent the practising of frauds upon the said Corporation with regard to the water so to be supplied.

Corporation
to have no
power to enact
any By-law
imposing any
general water
rent or tax, and
to compel ten-
ants, &c. to
take the water.

XIII. And be it enacted, that nothing in this Act contained shall extend or be construed to extend to confer upon the said Corporation any additional right of assessment beyond that now by them enjoyed, or of enforcing any general water rent or tax, or to permit the said Corporation by any By-law or other Municipal regulation hereafter to be determined upon by the said Corporation, in reference to the said Water Works, to subject any proprietor, householder or other person or persons to any general water-rent or tax, unless he or they be actually supplied with water, or to compel any such proprietor, householder or other person or persons to receive the said water, or the conduits thereof, into his or their premises.

Corporation
authorized to
issue Debentures
or Bonds to
the amount
of £50,000, re-

XIV. And be it enacted, that for the purpose of effecting the purchase of the said Water Works, as aforesaid, if it shall then be deemed expedient by the said Corporation, it shall and may be lawful for the said Corporation, on or after the completion of the purchase of the said Water Works, to issue under the hand of
the

the Mayor, and the seal of the said Corporation, Debentures or Corporation Bonds, to the amount of fifty thousand pounds, current money aforesaid, payable on or before the first day of November, in the year of Our Lord, one thousand eight hundred and sixty-eight, and bearing interest, payable semi-annually, on the first days of May and November, in each and every year, and at a rate not exceeding six per centum per annum.

deemable on or before 1st Nov. 1868, with interest semi annually.

XV. And be it enacted, that all the revenues arising from or out of the supplying of water, or from the property, moveable or immoveable, connected with the said Water Works, to be acquired by the said Corporation under this Act, shall, after providing for the interest accruing on the Debentures or Corporation Bonds issued by the said Corporation in pursuance of this Act, and the expenses attendant upon the maintenance of the said Water Works, be applied towards the immediate extinction of the principal of the debt incurred in the purchase thereof, and the said Corporation is hereby strictly prohibited and enjoined from applying any surplus revenue arising from the Water Works to any other purpose whatsoever, until the whole of the said debt and interest shall have been fully and completely discharged and extinguished, after which such surplus revenue shall make part of the general funds of the Corporation, and may be applied accordingly.

Revenues arising from the Water Works to be applied to the payment of the principal and interest of purchase and to no other purpose, until the same is paid off.

XVI. And be it enacted, that receipts for any interest due on all Debentures or Corporation Bonds that shall lawfully be issued by the authority of this Act, and which shall from time to time remain undischarged and uncanceled, as well as such Debentures or Corporation Bonds themselves, shall and may, after the period therein appointed for the payment of either thereof, be received and taken, by the Treasurer of the said City, from any person making payment to him upon any account or for any cause whatever, on account of the said City, and that the same shall be deemed and taken as money, and as such shall be charged against, and credited to, such Treasurer aforesaid in his accounts with the said City: Provided always, that no interest shall run or be paid upon or for any such Debenture during the time such Debenture or Corporation Bond so paid shall remain in the hands of the Treasurer as aforesaid, but for such time the interest on every such Debenture or Corporation Bond shall cease.

Debentures or the interest thereon may be paid to the City Treasurer in payment of any debt due the City.

Interest not to run on Debentures when in the hands of the City Treasurer.

XVII. And be it enacted, that the person or persons who shall pay any such Debenture or Corporation Bond so bearing interest, to the City Treasurer aforesaid, shall, at the time of making such payment, put his, or her, or their name or names, and write thereupon in words at length, the day of the month and year in which he, she or they so paid such Debenture or Corporation Bond, bearing interest; all which the said City Treasurer, shall take care to see done and performed accordingly; and to the day so ascertained, the said City Treasurer shall be allowed

Persons paying Debentures to City Treasurer to endorse the time of payment.

allowed the interest which he shall have paid or allowed upon such Debenture or Corporation Bond in his accounts with the said City.

Punishment
on persons
forging, alter-
ing or issuing
forged or coun-
terfeit Deben-
tures.

XVIII. And be it enacted, that if any person or persons shall forge, alter or counterfeit any such Debenture or Corporation Bond which shall be issued under the authority of this Act and remaining uncanceled, or any stamp, endorsement or writing therein or thereon, or tender in payment any such forged, altered or counterfeit Debenture or Corporation Bond, or any Debenture or Corporation Bond with such counterfeit endorsement or writing thereon or therein, or shall demand to have such altered or counterfeit Debenture or Corporation Bond or any Debenture or Corporation Bond, with such altered or counterfeit endorsement or writing thereon or therein, exchanged for ready money by any person or persons who shall be obliged or required to exchange the same, or by any other person or persons whomsoever knowing the Debenture or Corporation Bond, so tendered in payment or demanded to be exchanged, or the endorsement or writing thereon or therein, to be forged and counterfeit, and with intent to defraud the said City, or the person appointed to pay off the same, or any of them, or any other person or persons, bodies politic or corporate, then every such person or persons so offending, being thereof convicted, shall be adjudged a felon and shall be liable, at the discretion of the Court before which he, she or they may be tried, to be confined at hard labour in the Provincial Penitentiary, for any period not less than three years, or to be imprisoned in any other Prison or place of confinement for any period not exceeding two years.

City Trea-
surer to en-
dorse the pay-
ment of inte-
rest on Deben-
tures.

XIX. And be it enacted, that it shall be the duty of the City Treasurer aforesaid, whenever called upon to pay or allow the interest upon any of the Debentures or Corporation Bonds issued under the authority of this Act, to take care to have the same endorsed on such Debenture or Corporation Bond at the time of payment thereof, expressing the period up to which the said interest shall have been so paid.

Corporation
by notice to
call in Deben-
tures over due,
and interest to
stop on all De-
bentures called
in after six
months shall
have expired.

XX. And be it enacted, that at any time after the Debentures or Corporation Bonds, or any of them that shall be issued under the authority of this Act, shall respectively become due according to the terms thereof, it shall and may be lawful for the Corporation aforesaid, if they shall think proper so to do, to direct a notice to be inserted in two or more of the Newspapers published in the said City, in the English and French languages, requiring all holders of the said Debentures or Corporation Bonds to present the same for payment, according to the conditions thereof, and if after the insertion of such notices for three months, any Debentures or Corporation Bonds then payable shall remain out more than six months from the first publication of such notice, all interest on such Debentures or Corporation

Corporation Bonds, after the expiration of the said six months, shall cease and be no further payable in respect of the time which may elapse between the expiration of the said six months, and their presentment for payment.

XXI. And be it enacted, that whenever it shall be deemed expedient by the said Corporation to redeem the said Debentures or Corporation Bonds, or any of them, at any time prior to the date at which the same may be made payable, with a view to diminish the debt to be contracted in the purchase of the said Water Works, it shall and may be lawful for the said Corporation to direct a notice to be inserted in all the newspapers published in the said City of Montreal, requiring all holders of the said Debentures or Corporation Bonds to present the same for payment, and if after the insertion of such notice for three months, any Debentures or Corporation Bonds, then issued, shall remain out more than six months after the first publication of such notice, all interest on such Debentures or Corporation Bonds, after the expiration of the said six months, shall cease and be no further payable in respect of the time which may elapse between the expiration of the said six months, and their presentment for payment.

Corporation may call in Debentures before they are made payable and after six months notice, all interest thereon to be stopped.

XXII. And be it enacted, that nothing in this Act contained, shall extend or be construed to extend to diminish the power and authority of the Corporation, aforesaid, hereafter to borrow on the credit of the said City, for the general uses and purposes of the said City, as fully and effectually as though the said City were not indebted for the purchase of the Water Works as aforesaid, or that Debentures or Corporation Bonds had not been issued by them for the amount or purchase thereof, or as if this Act had not been passed, any Act, Statute or Law or provision thereof to the contrary notwithstanding.

Corporation not to be prevented from borrowing money for the general purposes of the City as heretofore.

XXIII. And be it enacted, that the said Corporation shall be, and they are hereby required to keep or cause to be kept separate books and accounts of the receipts and disbursements for and on account of the said Water Works, distinct from the books and accounts relating to the other property, funds or assets belonging to the said City, and shall annually, on or after the first day of January in each and every year, cause a statement of the affairs of the said Water Works to be published in two or more of the Newspapers of the said City, in the English and French languages, wherein shall be stated, the amount of the rents, issues and profits, arising from the said Works, the number of tenants supplied with water, the extent and value of the moveable and immoveable property thereunto belonging, the amount of Debentures or Corporation Bonds then issued and remaining unredeemed and uncanceled, and the interest paid thereon, or yet due and unpaid; the expenses of collection and management, and all other contingencies, salaries of officers and servants, the cost of repairs, improvements and alterations,

Particular statements of the revenue and expenditure of the Water Works to be kept and annually published.

alterations, the prices paid for the acquisition of any real estate that may be required for the use of the said Water Works, as also the value received for any real estate that may be sold and disposed of by the said Corporation, and generally such a statement of the revenue and expenditure of the said Water Works as will at all times afford to the Citizens of the said City of Montreal, a full and complete knowledge of the state of the affairs of the said Montreal Water Works.

Act not to prevent private Water Works nor to bind the Legislature.

XXIV. And be it enacted, that nothing in this Act contained, shall extend or be construed to extend to prevent any person or persons, Body Corporate, Politic or Collegiate, from constructing any Works for the supply of water to his or their own premises, or to prevent the Legislature of the Province at any time hereafter, from altering, modifying or repealing the powers, privileges or authorities hereinbefore granted to or obtained by the said Corporation.

Rights of the Crown, &c. saved.

XXV. And be it enacted, that nothing herein contained shall affect or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any Bodies Politic or Corporate, except such only as are herein mentioned.

'Limitation of Actions.

XXVI. And be it enacted, that if any Action or Suit shall be brought against any person or persons for any thing done in pursuance of this Act, the same shall be brought, within six calendar months next after the fact committed, or in case there shall be a continuation of damages, then within six calendar months after the doing or committing such damages, shall cease, and the Defendant or Defendants shall and may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance of and under the authority of this Act; and if it shall appear to have been so done, or if any such action or suit shall be brought after the time before limited for bringing the same, then the Judgment shall be entered for the Defendant or Defendants, or if the Plaintiff or Plaintiffs shall become nonsuit or shall suffer discontinuance of his or their action or suit, after the Defendant or Defendants shall have appeared, or if a Judgment shall be entered against the Plaintiff or Plaintiffs, or if upon exceptions or otherwise, Judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have treble costs, and shall have such remedy for the same, as any Defendant hath for costs of suits in other cases of law.

General issue and Special matter in evidence.

Treble costs.

Ordinances Incorporating the City of Montreal in so

XXVII. And be it enacted, that all the enactments and provisions of the Ordinance of the Governor and Special Council, of the late Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance*

to

to incorporate the City and Town of Montreal, as amended by a certain Ordinance of the Governor and Special Council aforesaid, passed for that purpose, also, in the fourth year of Her present Majesty's Reign, and intituled, *An Ordinance to amend the Ordinance to incorporate the City and Town of Montreal*, shall, in so far as they shall not be repugnant to or inconsistent with, the express enactments and evident intent of this Act, extend to, and govern each and every act and thing required or authorized to be performed and done, under the authority of this Act, as if this Act had formed part of the said last mentioned Ordinances, or of either of them.

far as they are not repugnant to this Act, to govern any matter required under this Act.

XXVIII. And be it enacted, that all Acts or Provisions of Law in force in this Province, or in any part thereof, before or up to the time when this Act shall come into force, which shall be inconsistent with, or contradictory to this Act, or which make any provision in any matter provided for by this Act, other than such as is hereby made in such matters, shall, from and after the time when this Act shall come into force, be and they are hereby repealed, except in so far as may relate to any circumstance, act or thing occurring, done, or effected before the commencement of this Act, which shall be dealt with, adjudged upon, and determined, as if this Act had not been passed.

All Acts or Provisions of law repugnant to or inconsistent with this Act to be repealed, except as to past transactions

XXIX. And be it enacted, that this Act shall be and is hereby declared to be a Public Act, and shall as such be judicially taken notice of by all Judges, Justices and other persons in this Province, without being specially pleaded.

To be deemed a public Act.

C A P . XLV.

An Act to incorporate Charles Cunningham, Richard Norman, Samuel Amory and others, forming a Joint Stock Company for carrying on the Fishery in the Gaspé District and Gulf of St. Lawrence, and Coal Mining in the said District.

[9th December, 1843.]

Preamble.

WHEREAS the improvement and extension of the British Fishery in the Gulf of St. Lawrence and Bay of Chaleurs, and other places on the coast of the Province of Canada, are of great importance, not only to the said Province but to the British Empire ; And whereas it is also of great importance to the said Province, that its Mines and Mineral wealth should be properly worked and brought into useful operation, and to accomplish the purposes aforesaid, it is expedient to establish a Body Politic and Corporate, with the powers, rights and privileges hereinafter

hereinafter contained, and more particularly with power to the said Body Politic and Corporate, to hold lands, tenements and hereditaments necessary to the carrying on their business in the said Province of Canada, to them and their successors, either by acquisition from the Crown or by purchase from individuals, and to work any Coal Mine or Coal Mines found thereupon, Mines and Minerals thereunto appurtenant and belonging, and with full power to work the same, and to hold and possess immoveable and moveable property of every description ; And whereas Charles Cunningham, of Clarges-Street, in the County of Middlesex, Richard Norman, of Bryanstone Square, in the said County, and Samuel Amory, of Throgmorton-Street, also in the County aforesaid, in that part of the United Kingdom of Great Britain and Ireland called England, Esquires, in order to carry the aforesaid purpose into effect, have, by their petition in this behalf, represented that they are, on behalf of themselves and other persons, prepared to raise by subscription a capital of one hundred and fifty thousand pounds, sterling, when they shall be duly authorized and protected in so doing, by an Act of Incorporation passed by the Provincial Legislature of Canada, and by a Charter from the Crown ; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said Charles Cunningham, Richard Norman, Samuel Amory, and such and so many other person or persons, Bodies Politic or Corporate as have become or shall at any time hereafter become Subscribers or Shareholders of or for the Capital Stock hereinafter mentioned, in manner hereinafter provided, and their respective successors, executors, administrators and assigns, or such other person or persons, Bodies Politic or Corporate, as shall from time to time be possessed of or entitled to such shares as hereinafter provided, shall be a Body Politic or Corporate in the Province of Canada, in deed and in name, by the name of "The Gaspé Fishery and Coal Mining Company," and by that name shall and may sue and be sued, implead and be impleaded in all Courts of Law and Equity in the said Province of Canada, and shall, during the continuance of this Act, have uninterrupted succession with a Common Seal, which may by them be changed or varied at their pleasure.

Certain persons incorporated for the purposes mentioned in the Preamble.

Corporate name and powers.

II. And be it enacted, that it shall be lawful for the said Company to engage in and follow the occupation of carrying on the Fisheries, and such Trade as may be necessary to the carrying on of the said Fisheries in the Gulf of St. Lawrence, the Bay of Chaleurs, and elsewhere, on the sea coast of Canada, and it shall be further lawful for the said Company, their Agents and Servants to land (saving always

always the rights of others) on any part of the said sea coast of Canada, and on the banks or shores of the Bays, Harbours, Creeks and Rivers of the said Gulf within the said Province (except where the same are private property or are occupied) to salt, cure and dry the Fish which they may catch or purchase, and to do all such other lawful and needful acts as may be necessary effectually to prepare and export the same for sale to the several markets for which the said Fish may be intended.

III. And be it enacted, that it shall be lawful for the said Company to hold to them and their successors such lands, tenements, hereditaments and immoveable property of every description, as may be necessary to the carrying on the business of the said Company, the value thereof not to exceed at any one time Fifty thousand pounds, sterling, within the District of Gaspé, in the said Province, and that it shall be lawful for the said Company to dig, sink, work or make mines, pits and shafts, and to drive drifts, waterfalls or watercourses upon and under the surface of the lands, tenements and hereditaments so acquired by them (without prejudice always to the rights and property of Her Majesty and of any others) by grant or purchase, for the winning and getting of Coal, in, upon, or out of any part of the said lands, tenements and hereditaments; and it is hereby enacted and declared, that if the said Company shall at any time hold such lands, tenements and hereditaments, and immoveable property as aforesaid, exceeding the aforesaid sum in value, then this Act shall cease and determine, and the said Company shall forfeit all, each and every the rights and privileges hereby conferred.

The Company may carry on Fisheries in certain parts of the Province.

They may hold lands to a certain annual value, and may carry on the mining business.

IV. And be it enacted, that the Capital or Joint Stock of the said Company shall be used and applied in establishing and carrying on the said undertakings, and for the purposes aforesaid; and that the shares in the said advantages, and in the profits and undertakings thereof, shall be, and be deemed personal estate and moveable property in the Province of Canada, and as such personal estate and moveable property shall be transmissible accordingly.

Capital stock to be applied to certain purposes:—to be personal property.

V. And be it enacted, that all and every person and persons, Bodies Politic or Corporate, by or from whom any subscription shall be made or accepted, or any payment made pursuant to the provisions herein contained for that purpose, for or towards the raising of the said Capital of One hundred and fifty thousand pounds, sterling, as aforesaid, his, her or their successors, or executors or administrators and assigns, respectively, (no such subscription being less than one hundred pounds, sterling) shall have and be entitled to a share of, and in the said Capital or Joint Stock of the said Company in proportion to the monies which he, she or they shall have so contributed towards making up the same, and shall have and be entitled to a proportionable share of the profits and advantages attending

Subscribers of sums not less than £100 to be deemed stockholders, and entitled to a share of profits.

tending the Capital of the said Company, and shall be admitted to be a proprietor or proprietors of and in the same.

The Company shall cause the names of all shareholders to be entered in proper books.

VI. And be it enacted, that the said Company, or the Directors to be appointed by virtue of this Act, shall cause the names and designations of the several persons, Bodies Politic and Corporate, who shall subscribe for or at any time hereafter be entitled to a share or shares in the said Company with the number of such share or shares, and also the proper number by which every share shall be distinguished, to be fairly and distinctly entered in a book or books, to be kept by their Clerk or Secretary.

Stock subscribed for to be paid up by instalments, and if not paid the amount may be recovered by the Company.

VII. And be it enacted, that the several persons, Bodies Politic or Corporate, who shall subscribe for and towards the said Capital, or shall at any time hereafter have or hold any share or shares in the same, shall and they are hereby required to pay the sum or sums of money by them respectively subscribed, or such part or portions thereof as shall from time to time be called for, pursuant to or by virtue of the provisions of this Act, at such times and places to such person or persons, and in such manner as shall be ordered and directed by the Directors for the time being of the said Company, or such of them as shall be present and constitute a Board of Directors, or the majority of them, and in case any person or persons, Bodies Politic or Corporate, shall neglect or refuse to pay any such sums of money at such times and in such manner as shall be so ordered and directed as aforesaid, it shall be lawful for the said Company to sue for and recover the same, together with lawful interest from such appointed time of payment, from such person or persons, Bodies Politic or Corporate, or in cases where two or more persons, Bodies Politic or Corporate, shall have jointly subscribed for or be jointly possessed of any one or more share or shares in the said Company, then from all, any or either of such persons Bodies Politic or Corporate.

Which of the joint-owners of any share or shares shall vote in respect thereof, &c.

VIII. And be it enacted, that whenever two or more persons, Bodies Politic or Corporate, shall be jointly possessed of or entitled to any share or shares in the said Company, the person whose name shall stand first in the book of the said Company as proprietor thereof, shall, for all the purposes of the said Company and of this Act, be deemed and taken to be the owner and proprietor of such share or shares, and all notices required to be given to the owner or proprietor of any share or shares, in the said Company, shall and may be given to or served upon such person or body, whose name shall so stand first in the books of the said Company, and such service upon such person or body shall be deemed and taken to be a service upon all the owners or proprietors of such share or shares, for all the purposes for which such service is intended to be made upon the owners or proprietors of such share or shares, and all such owners or proprietors shall be entitled

entitled to give their vote or votes in respect thereof, by the person or body whose name shall stand first in the books of the Company, as such proprietor of such share or shares, and his vote shall on all occasions be deemed and allowed to be the vote in respect of the whole property in such share or shares, without proof of the concurrence of the other proprietor or proprietors of such share or shares.

IX. And be it enacted, that it shall be lawful for the several proprietors of the said Company, their executors, administrators, successors and assigns, to sell and transfer any of their share or shares, and every transfer thereof may be in the form and to the effect given in the Appendix to this Act, or in any other convenient form to be devised by the said Company, and every such transfer shall not only be under the hand or hands of the member or members transferring such share or shares, but of the person or persons, Bodies Politic or Corporate to whom the same shall be transferred, or some person by such transferor or transferors and transferee or transferees lawfully authorized, and which said transfer shall be made and entered in a book to be kept by the said Company for that purpose, for which a fee shall be paid to and for the use of the Company, not exceeding ten shillings for each share transferred, to be from time to time fixed by the Directors or a majority of them, and that such transfer shall effectually transfer the whole estate and interest in such share or shares of the person or persons so making or authorizing the same to the person or persons, Bodies Politic or Corporate so taking or accepting such transfer; which person or persons, Bodies Politic or Corporate, shall thenceforth become in all respects members of the said Company in respect of such share or shares in the place of such person or persons so transferring the same or authorizing the same to be transferred, and that until such transfer shall be made and entered in such book in manner aforesaid, no person or persons claiming an interest in any such share or shares, by purchase or otherwise, shall be deemed the proprietor or proprietors thereof, or shall be entitled to any dividend or beneficial interest in the said Capital Stock in respect thereof, nor until six calendar months after such transfer shall have been made, be entitled to vote at any meeting or meetings in respect of such share or shares, and a copy of such transfer, extracted from the said book and signed by the Clerk, Secretary or other Officer of the said Company, duly authorized thereto, shall be sufficient evidence of every such transfer, and be admitted and received as such in all Courts of Law.

Stock may be transferred by assignment in a certain form.

Votes on transferred stock.

X. And be it enacted, that the Directors hereinafter mentioned, or the Directors for the time being, or such of them as shall be present at and constitute a Board of Directors, or the majority of them, shall have full power to make such call or calls for money from the several subscribers and proprietors for the time being

Certain powers vested in the Board of Directors.

Instalments
how called for.

being of the said Company, their respective Executors, Administrators, Successors and Assigns, not exceeding in the whole the sum of one hundred pounds, Sterling, on each of the shares held by him, her or them, respectively, as the said Board of Directors shall from time to time find wanting and necessary for the purposes of the said Company, so that no one call do exceed the sum of ten pounds, sterling, for or in respect of any one share of one hundred pounds, and so that no call or calls be made for any instalment short of three months public notice, and the sum or the several sums of money so to be called for shall be paid to the Bankers of the said Company for the time being, or to such other person or persons, and at such time and place, as shall be appointed by the said Board of Directors, of which time and place twenty days previous notice at least shall be given in the London Gazette, and in such two or more of the daily London Newspapers, and in the Quebec Gazette published by authority, and in such two or more of the weekly or daily Canada Newspapers, as the said Board of Directors shall direct: Provided always, that any person or persons, may if he or they think fit, pay down at any one time the full amount of their subscription and Stock, who shall in that case be entitled to a proportion of the profits arising thereupon from the day of the payment thereof.

Notice to be
given.

Proviso.

Forfeiture
of Shares on
which instal-
ments duly
called for shall
not be paid in.

XI. And be it enacted, that if any proprietor or proprietors of any share or shares in the said Company, his, her or their Executors, Administrators, Successors or Assigns, shall neglect or refuse to pay any call or calls which shall be so made as aforesaid during the space of six calendar months next after the time appointed for payment thereof, together with lawful interest from the appointed time of payment, then and in every such case, such person or persons, Bodies Politic or Corporate, so neglecting or refusing, shall absolutely forfeit all his, her or their share or shares in the said Company, and all profits and advantages thereof, and all money theretofore advanced by him, her or them, on account thereof to and for the use and benefit of the said Company, and all shares which shall or may be so forfeited, shall or may, at any time or times thereafter, be sold at a Public Sale for the most money that can be gotten for the same, and the produce thereof shall go to and make part of the Capital Stock of the said Company, and such share or shares so forfeited and sold, shall be assigned and transferred to the purchaser by an instrument under the Common Seal of the said Company, in the manner required upon other transfers of any share or shares, but no advantage shall be taken of such forfeiture of any share or shares until the same shall be declared to be forfeited at some general or special meeting of the said proprietors, which shall be held not earlier than six calendar months next after the said forfeiture shall happen, and that every such forfeiture so to be declared shall be an absolute indemnification and discharge to and for the proprietor or proprietors, or his, her or their Executors, Administrators, Successors and Assigns so forfeiting,

against

Sale of such
Stock.

against all actions, suits and prosecutions, and from all liability in respect thereof, and for any breach of contract or other agreement between such proprietor or proprietors, his, her or their Executors, Administrators, Successors and Assigns, and the said Company, in respect of such share or shares, with regard to the future carrying on, and management of the said Company.

XII. And be it enacted, that for the better ordering, managing and governing the affairs of the said Company, and for making and establishing a continual succession of persons to be Directors and Auditors of the said Company, there shall be from time to time constituted in manner hereinafter mentioned, out of the members of the said Company, a Chairman, who shall also be a Director and five other Directors as hereinafter mentioned, and two Auditors of the said Company, and a Secretary, which Chairman and other Directors, or any three of them, shall constitute and be called a Board of Directors for the ordering, managing and directing, in the manner and under the provisions hereinafter contained, the affairs of the said Company.

Directors,
Auditors, and
Secretary how
appointed.

Board.

XIII. And be it enacted, that it shall and may be lawful for all and every the members or shareholders of the said Company, from time to time, to assemble and meet together at any convenient place or places in London, for the choice of a Chairman and other Directors and Auditors, and for the making of By-Laws, Rules, Orders and Regulations for the government of the said Company, and for other affairs or business concerning the same, six weeks previous notice thereof being given by advertisement in the London Gazette and in two or more of the daily London Newspapers, and in the Quebec Gazette, and two or more of the Canada Newspapers, and that such meeting being so duly assembled, shall, with the assent of the majority of proprietors so assembled, have power to adjourn from time to time, as shall be convenient, and that on some day or days, within two years from and after the passing of this Act, and in every succeeding year, there shall be yearly and successively chosen all succeeding Chairmen, Directors and Auditors of the said Company, out of the members of the said Company, by a majority of the votes of all and every such members of the said Company in general meeting assembled, as shall be personally present, and of all Bodies Politic and Corporate, who may vote by deputation under their Common Seal at such meeting, who shall be entitled to vote, in respect of their share in the said Capital Stock of the said Company, in the proportions following, that is to say: that every holder of five and less than ten shares, in the said Capital Stock, shall be entitled to one vote; every holder of ten and less than twenty shares, to two votes; every holder of twenty and less than twenty-five shares, to three votes; and every holder of twenty-five shares or upwards, to four votes, and no more: Provided always, and it is hereby enacted, that if any member, or shareholder of the said

Meetings of
the Share-
holders, how
called and
held.

Number of
Votes to which
each Share-
holder shall
be entitled.

Proviso.

In certain cases Shareholders may vote by proxy.

said Company shall be unable to attend the said general meeting or meetings by reason of his permanent residence in Canada or elsewhere out of the United Kingdom, it shall be lawful for every such member or shareholder to vote by proxy at such general meeting or meetings, and the vote by proxy of such member or shareholder shall be as effectual and valid, and shall be subject to the same rules, regulations and directions as if the said member or shareholder attended to vote in person, and the election of such Chairmen, Directors and Auditors at the annual or other elections shall take place by ballot, or in such other mode as shall be determined by any By-law of the Company to be made as herein provided.

Qualification of Chairman, Directors and Auditors.

XIV. And be it enacted, that no person shall at any time be capable of being chosen Chairman or other Director or Auditor of the said Company, unless he shall, at the time of such election, be a natural born or naturalized subject of the United Kingdom, and shall also have in his own name and in his own right five shares or more of the Capital Stock of the said Company, and that no Director or Auditor shall continue in office longer than the continuance of such his interest in such number of shares in his own name and right, and to his own use, and in case any Chairman, other Director or Auditor shall be in any manner divested of or part with such of his shares as to reduce the same to any lesser number than as aforesaid, then the Board of Directors for the time being at their next meeting when such fact shall be made to appear to them, shall proceed to declare the office of such Chairman or Director or Auditor, so divested of or parting with his said shares as aforesaid, to be vacant, and the said vacancy or vacancies so declared shall be filled up in the same manner as in the case of other vacancies at the General Meeting of the said Company, which shall be duly held next after such declaration, and that in every case where any Chairman or other Director or Auditor shall happen to die or resign his office before the annual election of such Officers, the major part of the Members of the said Company qualified as aforesaid to be assembled in a General Meeting, shall and may elect and choose any other Member or Members of the said Company qualified as aforesaid, into the office of such Chairman, other Director or Auditor that shall so die or resign, which person or persons so to be elected, shall continue in his or their said office for such and the like period as the Chairman, Director or Auditor had to serve, in whose place or stead he shall be so elected.

Vacancies in certain cases, how to be filled.

Shareholders at General Meetings may fix the remuneration of Officers.

XV. And be it enacted, that it shall and may be lawful for the said Company, at any General Meeting, to grant such salaries and allowances to be paid to the said Chairman, and other Directors and Auditors, and Secretary of the said Company, as may be deemed expedient.

Special General Meetings, how called.

XVI. And be it enacted, that upon the requisition in writing of any ten or more of the Members of the said Company, each having not less than five shares in the said

said Capital Stock, the Board of Directors shall, within six weeks after such requisition, (and of which such notices shall be given as hereinbefore directed,) summon and call a Special General Meeting either for General or Special purposes, to be held, of the Members of the said Company qualified to vote as electors as aforesaid, and in default of the Board of Directors to summon and call such meeting, it shall be lawful for the said ten or more Members having such shares as aforesaid, upon six weeks previous notice, by advertisement under their hands in the London Gazette, and in two or more of the daily London newspapers, and in the Quebec Gazette, and two or more of the Canada newspapers, to summon and hold a Special General Meeting in London, and there to consider and debate upon any business relating to the Government or affairs of the said Company. And in case such Special General Meeting shall have been convened for any special purpose, then to proceed in such special matter, and to come to any determination or to despatch any business belonging to such special purposes, or otherwise to come to any resolution or resolutions for the further examination into the matters relating to the affairs and government of the said Company. And that it shall and may be lawful, in pursuance of any resolution by the majority of the Members composing such Special General Meeting, to adjourn the same to a day then to be fixed upon, and so from time to time, and that such Special General or adjourned General Meeting, composed of Members qualified as aforesaid, shall be holden finally to determine by the majority of their voices upon all resolutions relating to the affairs and government of the said Company: Provided always, that in every such case the requisition and summons for a General Meeting shall express the purpose thereof.

Proceeding
at such Special
General Meeting.

Proviso.

XVII. And be it enacted, that it shall and may be lawful to and for all and every the Members of the said Company, qualified to vote as aforesaid, in a General Meeting duly assembled by the majority of votes of those there present, to make and constitute such By-laws, rules, orders and regulations for and relating to the affairs and government of the said Company, so that such By-laws, rules, orders and regulations be not repugnant to the Laws and Statutes of this Province, nor repugnant to any of the enactments herein contained: Provided always, that such By-laws, rules, orders and regulations, be duly recorded in the Public Book of the said Company, so that the same may be at all seasonable times accessible to the Members and Officers of the said Company, and others whom it may concern.

Shareholders at General Meetings may make By-laws.

Proviso.

XVIII. And be it enacted, that the Chairman of the Board of Directors shall preside and act as Chairman of the said General Meetings, and if it shall so happen that at any Meeting of the said Directors, or at any General Meeting of the said Company, the said Chairman shall not attend, it shall be lawful for the majority of

Chairman of the Board of Directors to preside at General Meetings.

If not present, a Special Chairman may be appointed.

of the Directors then present to appoint a Chairman for that occasion, and in case no Director shall be present at a General Meeting of the said Company, or in case the Director or Directors present shall not appoint a Chairman for such occasion, it shall be lawful for the Members of the said Company then present, or a majority of them, to appoint a person to preside at such Meeting, and the Chairman of the Board of Directors or other person presiding at any such Meeting, shall, in case of an equality of votes, have a second or casting vote.

What property shall form the Capital Stock of the Company.

Shareholders not to be liable for more than the amount of their Stock.

XIX. And be it enacted, that all sums of money paid and received in respect of the shares of the said Company, together with all acquisitions or investments whatsoever, whether real or personal, immoveable or moveable, or wheresoever lying, being and situated; whether vested in the said Company in their own name or in the names of Trustees, or in what manner soever the same shall be vested, shall form and constitute the Joint or Capital Stock of the said Company and their Successors, and shall be liable and answerable for the debts, liabilities and engagements of the said Company: And no shareholder of the Company shall be liable for, or charged with the payment of any debt or demand due from the Company beyond the extent of his or her share in the Capital of the Company not then paid up.

Additional Stock may be raised if the sum before mentioned, shall be insufficient.

Rights of subscribers to such additional Stock.

XX. And be it enacted, that in case the said sum of one hundred and fifty thousand pounds, sterling, shall be found insufficient in the opinion of the Board of Directors of the said Company, to carry into full effect the beneficial purposes aforesaid, then, and in such case it shall be lawful for the Members of the said Company for the time being, in pursuance of any resolution adopted at and confirmed at a subsequent General or General Special Meeting, to raise and contribute amongst themselves, in such shares and proportions as they shall think proper, or by the admission of new subscribers, any further or other sum of money not exceeding the sum of one hundred thousand pounds, sterling, and every subscriber towards raising such further sum of money shall be a Proprietor of and in the Capital of the said Company, and shall have a like vote in respect of his or her shares in the said additional sum so to be raised, and be liable to such forfeitures and stand interested in all the rights, profits and advantages of the said Company, in proportion to the sum he, she or they shall subscribe to the said Capital so extended, to all intents and purposes, as if such further or other sum hereby allowed to be subscribed for or raised had been originally part of the Capital of the said Company, any thing hereinbefore contained to the contrary in anywise notwithstanding.

Meetings of the Directors regulated.

XXI. And be it enacted, that the said Chairman and other Directors for the time being, or any three or more of them, shall and may, from time to time, and

and at all convenient times, and when and as often as they shall think fit, assemble and meet together at any place or places in London, for the direction and management of the affairs of the said Company, and being so assembled, shall in all respects conform themselves to the By-laws, rules, orders and regulations of the said Company, and subject to all such By-laws, rules, orders and regulations, shall have the direction and management of the affairs and business of the said Company, and of all traffic, commerce and dealings relating thereto, and also, the disposition and investment of all cash, bills, notes and other securities belonging to the Company, and also, full power and authority to enter into all contracts, whether under seal or otherwise, on behalf of the Company, and to make and execute all assignments, conveyances, and all other acts to which the Corporate Seal is required to be affixed, and to appoint a Counsel, Secretary and Solicitor, and all Clerks, Agents, Servants or other Officers which shall from time to time be considered necessary to be employed in the affairs and business of the said Company, and to allow and pay them such reasonable salaries and allowances, and to displace or remove them or any of them as they shall see cause, and generally to do and act in all matters and things whatsoever which they shall judge necessary for the well ordering and managing of the said Company and the affairs thereof, and to do, enforce, perform and execute, all the powers, authorities, provisions, Acts and things in relation to the said Company, and to bind the said Company as if the same were done by the whole Corporation : Provided also, that in no case shall the Corporate Seal of the said Company be affixed to any instrument whatever, except by order in writing of the Board of Directors, and in the presence of at least two of the Directors, who shall attest by their signatures such sealing, and that the same was done by order of the Board of Directors, which attestation shall be evidence of the fact of such order.

Their powers.

XXII. And be it enacted, that this Act shall not be in force nor have effect until the said Company shall have obtained a Charter from Her Majesty, Her Heirs or Successors, in conformity to the provisions thereof, in so far as regards matters to be transacted, or things to be done out of or beyond the limits of this Province.

This Act not to be in force till a Royal Charter is obtained.

XXIII. And be it enacted, that the said Company shall, when and so soon as the same, pursuant to this Act shall be operative in this Province, open an office or counting-house in each of the Districts of Quebec and Gaspé for the transaction of their business.

Offices to be opened in Quebec and Gaspé.

XXIV. And be it enacted, that in case of actions, suits or demands against the said Corporation in any of the Law Courts in this Province, service of the summons, writ, or process of Court issuing in any such action, suit or demand, at the

At what place service of Process may be made on

the Company
in this Pro-
vince.

the ordinary office or counting-house therein of the said Company, shall suffice to hold the said company to appear and plead to the action, suit or demand against such Company.

What amount
of Stock shall
be paid up be-
fore the Com-
pany shall go
into operation.

Proclamation
required.

XXV. And be it enacted, that before this Act shall have its full effect, and the said Corporation be operative in this Province, evidence, satisfactory to the Governor or person administering the Government thereof for the time being, shall be laid before him that the requirements of this Act have *bona fide* been complied with, and that one half at least of the said Capital sum of one hundred and fifty thousand pounds, sterling, has actually been paid up by the Subscribers or Stockholders of the said Company, and at the disposal of the Directors thereof for the purposes of the Company, in accordance with this Act, and notice thereof given by proclamation, or otherwise, in such manner as His Excellency shall deem advisable, whereupon the said Company and Corporation shall be operative in this Province.

Certain ac-
counts relative
to the affairs
of the Com-
pany, to be
laid annually
before the Le-
gislation.

XXVI. And be it enacted, that it shall be the duty of the said Corporation and of the person or persons entrusted with the chief gestion of its affairs in this Province, to lay annually before the three branches of the Legislature thereof, in the course of the first fifteen days after the opening of the Session, a general statement upon the oath of the Manager, Agent or Chief Clerk of the said Company in this Province, before any of the Justices of the Court of King's Bench, Queen's Bench or other Superior Court of Civil Jurisdiction, of the affairs of the said Company, shewing as well the amount of its liabilities, as the assets, or means of meeting the same in this Province, in moveable property or effects and estate real or immoveable, and such Manager, Agent or Chief Clerk being charged before any competent Court of Criminal Jurisdiction of false swearing in the matter of the said statement, shall be tried, and if found guilty be punished in like manner, as if he had been charged and convicted of the crime of wilful and corrupt perjury.

The Com-
pany not to act
as Bankers.

XXVII. Provided always, and be it enacted that nothing in this Act contained shall be held to authorize or warrant the said Corporation to act as Bankers, or to issue or keep in circulation notes in the nature of bank notes, or to make such notes valid in law, if issued by or in the name of the said Corporation.

Public Act.

XXVIII. And be it enacted, that this Act shall be deemed a public Act, and as such judicially be noticed by all Judges, Justices and others whom it shall concern, without being specially pleaded.

Rights of the
Crown saved.

XXIX. And be it enacted, that nothing in this Act contained shall in any manner derogate from or affect the rights of Her Majesty, Her Heirs or Successors,
or

or of any Person or Persons, Body Politic or Corporate, except in so far as the same may be specially derogated from or affected by the provisions of this Act, nor shall the same extend or be construed to extend to confer upon the said Company any right of property in the Ores or Minerals in or upon, or under the surface of the said lands and tenements and hereditaments of the said Company, beyond such as may be conferred by the titles of the said Company to the said lands, tenements or hereditaments, or by the laws in force in that part of the Province in which the same shall or may be situate.

Right of the Company to ores and minerals to be governed by their titles.

XXX. And be it enacted, that this Act shall be and remain in force until the first day of May, which will be in the year of Our Lord one thousand eight hundred and seventy three, and no longer.

Duration of this Act.

A P P E N D I X.

I (or we) of in consideration of
 paid to me (or us) by of do hereby bargain,
 sell, assign and transfer unto the said the sum of
 Capital Stock, of and in the undertaking called the Gaspé Fishery and Coal
 Mining Company, being share (or shares) number (or numbers)
 in the said undertaking, to hold unto the said Executors,
 Administrators, or Assignees, subject to the same Rules, Orders and Regula-
 tions, and on the same conditions that I (or we) held the same immediately be-
 fore the execution hereof, and I (or we) the said do
 hereby agree to accept and take the said (share or shares)
 subject to the same Rules, Orders, Regulations and conditions.

As Witness our Hands and Seals, this day of in the
 year of Our Lord 18 .

C A P.

CAP. XLVI.

An Act to amend the Act incorporating the Bank of Montreal, by providing for the extension of the time limited for the paying up of the New Stock of the said Bank.

[16th November, 1843.]

Preamble.

Term limited for paying up the additional Stock, authorized by the 4 & 5 V. c. 98, sect. 3—extended.

WHEREAS the Corporation of the Bank of Montreal have, by petition to the Legislature, prayed for an extension of the time within which their new shares of Capital Stock must be fully paid up, and it is expedient to grant their prayer; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the term of two years, in and by the third section of the Act of the Parliament of this Province, passed in the Session thereof, held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to renew the Charter of the Bank of Montreal, and to increase its Capital Stock*, limited for wholly paying up the increase of five thousand shares of Capital Stock, provided by the said third section, shall be, and the same is hereby extended to two years, from and after the passing of this Act.

CAP. XLVII.

An Act to Incorporate the Members of the Mercantile Library Association of Montreal.

[9th December, 1843.]

Preamble.

WHEREAS an Association hath been formed in the City of Montreal, in this Province, by divers persons engaged as Mercantile Clerks, and otherwise, resident in that City and the neighbourhood thereof, under the name of "The Mercantile Library Association of Montreal," for the purpose of forming a Library and Reading Room, and for organizing a system of instruction, by means of Lectures and Classes, for the use and benefit of the members of the said Association, and of such Mercantile Clerks and others as may hereafter become members thereof; And whereas the persons hereinafter named, Office-bearers of the said Association, and acting on behalf of the members thereof, have, by their

petition

petition to the Legislature, represented that they have purchased and acquired a valuable collection of books, and other necessary property, and have, agreeably to the objects of the said Institution, caused lectures to be delivered and classes to be formed, for instruction in various branches of knowledge necessary or advantageous to the said Associates in their pursuits in life; and have further represented that the benefits derivable from such an Association to that class of the community of which they form part, would not only be secured, but be greatly enhanced by the incorporation of the members thereof, and have prayed to be so incorporated; and whereas it is expedient to grant the prayer of the said petitioners, subject to the provisions and enactments hereinafter set forth and made in that behalf; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that William Newhouse, Theodore Lyman, Thomas Malligaum Taylor, Alfred Phillips, George Bent, Theodore Davis Hall, James Wright Cumming, Hugh Edmonstone Montgomery, William Henry Clare, George Henry Frothingham, William Charles Evans, Peter Roe, John Murray, Edward Brown, and Alexander Frederick Sabine, with all such other persons as now are, or, being duly competent, may hereafter be associated with them for the purposes hereinbefore mentioned, and their successors for ever, shall be one body politic and corporate, in deed and in name, by the name and style of "The Mercantile Library Association of Montreal," and shall by that name have perpetual succession and a Common Seal, and shall have power from time to time to alter, renew or change such Common Seal at their pleasure, and shall by the same name from time to time and at all times hereafter be able and capable to have, take, receive, purchase, acquire, hold, possess, and enjoy to them and their successors as aforesaid, to and for the uses and purposes of the said Corporation, any messuages, lands, tenements and hereditaments, of what nature, kind or quality soever, situate, lying and being within this Province, not exceeding in yearly value the sum of one thousand pounds, currency; and also to take, receive, purchase, acquire, have, hold and possess (provided the same do not exceed a like sum in yearly value) to and for the same uses and purposes, any goods, chattels, gifts or benefactions whatsoever, and shall and may, by the same name, be able and capable to sue in law, and to be sued, implead and be impleaded, answer and be answered unto, in all Courts of Law and places whatsoever, in all and singular actions, causes, pleas, suits, matters and demands whatsoever, in as large, ample and beneficial a manner and form as any other Body Politic or Corporate, or any persons able and capable in law, may or can sue, implead or answer, or be sued, impleaded or answered in any manner whatsoever.

Certain persons incorporated.

Corporate name.

Corporate powers.

Real property.

Where process may be served on the Corporation.

II. And be it enacted, that in all and every suit or suits at law, which may hereafter be instituted against the said Corporation, service of process at the place where the Library of the said Corporation may be deposited, shall be sufficient to compel the said Corporation to appear and plead to such suit or suits; any law, custom or usage to the contrary in anywise notwithstanding.

General meetings of the members, when and where to be holden.

III. And, for the better accomplishment of the purposes hereinbefore mentioned, be it enacted, that the members of the said Corporation and their Successors for ever, shall, on the first Monday of December, in each and every year hereafter, meet at some convenient place, to be appointed by the said Corporation (or the major part of those who shall be present at any general meeting), between the hours of ten in the forenoon and ten in the evening; and that they, or the major part of such of them as shall be there present, shall choose one President, one Vice-President, ten Directors, and one or more Secretary or Secretaries, and such other officers and servants as they, or such major part of them, shall deem expedient, to serve in the said offices during the year then next ensuing; and may do and transact all matters and business relative to the interests of the said Corporation; and if, by reason of any matter or thing soever, the election so to be had and made on the first Monday of December as aforesaid, shall be prevented, or shall not be had or made, then, and in every such case, it shall be competent to the members of the said Corporation and their Successors, or to the major part of such of them as may be present at a meeting to be called by the President, or Vice-President, for the time being, in the manner hereinafter prescribed, and held as soon after as shall be convenient, to proceed to and make the election of a President, Vice-President, Treasurer, ten Directors, Secretary or Secretaries and officers and servants as aforesaid; and the elections so made shall be as valid and effectual as if they had been made on such first Monday of December; and the President and other officers of the said Corporation theretofore elected, shall continue in office until others shall be elected in their stead, any thing hereinbefore contained to the contrary notwithstanding: Provided always, that the President, Vice-President, Treasurer, Directors and Secretary or Secretaries as aforesaid, to be elected at any general election of officers under and by virtue of the provisions of this Act, shall not enter upon nor act in the discharge of their respective offices until the Monday next ensuing after such general election.

Election of officers.

Other things to be done at such meetings.

Provision made for the case of the failure of any election on the day appointed.

Proviso.

Present officers continued until the first election shall take place, President to call a meeting.

IV. And be it enacted, that until the first election of officers shall take place, as herein provided, the present officers of the said Association shall be and continue to be the officers of the Corporation hereby created; and that the President, or, in his absence from the City of Montreal, the Vice-President of the said Corporation, shall, within three months after the passing of this Act, cause notice to be given to such of the members of the said Corporation as shall be then resident in

in the said City of Montreal, by public advertisement, to be published ten days at least previously in one or more newspapers at Montreal, to meet at such place and time as he shall, in and by such notice, appoint; and the said members, or the major part of such of them as shall be then present, shall, at the time and place so appointed, proceed to the election of a President and of a Vice-President, Treasurer, ten Directors, Secretary or Secretaries, and of such other officers and servants as to them shall seem meet; which said officers, from the time of their election to their respective offices, shall continue therein until the first Monday of December then next ensuing, and from thenceforth until others be chosen in their places in the manner aforesaid.

First elec-
tion of officers.

Period of ser-
vice.

V. And be it enacted, that if, at any time or times, it shall happen that any of the persons chosen to fill the said offices, respectively, shall die, or be removed from the said offices, or resign the same during the period for which they shall have been respectively elected, then, in every such case, it shall be lawful and competent for the remaining officers of the said Corporation, or the major part of such of them as may be present at any duly appointed meeting, to choose a member or members of the Corporation to fill the office or offices so vacated: Provided always, that the person or persons who may be thus elected, shall retain the said office or offices, only until the next ensuing annual election of officers as hereinbefore provided, and no longer.

Vacancies
occurring be-
tween the elec-
tions how fil-
led.

Proviso.

VI. And be it enacted, that the members of the said Corporation, or the major part of those who shall be present at any general meeting of the said Corporation, held according to the requirements and provisions of this Act, shall have power and authority to frame and make By-laws, rules and regulations touching and concerning the good government of the said Corporation, and the income and property thereof, and any other matter or thing relative to the same, which to them may seem fit or expedient for the effectual attainment of the objects of the said Corporation, and the administration of its concerns; and also, from time to time, by such new By-laws, rules and regulations, as to them shall seem meet, to alter or repeal those so made as aforesaid: Provided always, that no such repeal or alteration shall be valid, unless notice of the motion for such repeal or alteration shall have been placed in some conspicuous part of the usual place of meeting of the said Corporation, for at least one calendar month previous to the general meeting at which such motion shall be made and considered: Provided also, that no such Statutes, By-laws, rules or orders shall be contrary or repugnant to the laws of this Province, or to the provisions of this Act.

Power to
make by-laws.

And to alter
or repeal them.

Proviso, as
to repeals.

Proviso.

VII. And be it enacted, that this Act shall be held and considered to be a public Act, and as such shall be judicially taken notice of, held and considered in all Courts

Act to be a
public Act.

Courts of Justice, and by all Judges and Justices of the Peace, and by all others whom it may concern, without being specially pleaded.

C A P . XLVIII.

An Act to confer certain powers on the Bishop of Montreal, in the transfer of certain Lands.

[9th December, 1843.]

Preamble.

Act of the Imperial Parliament, 68, c. 4, c. 59, cited.

WHEREAS, by an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the sixth year of the reign of His late Majesty George the Fourth, intituled, *An Act to provide for the extinction of Feudal and Seignioral Rights and Burthens on Lands held à Titre de Fief, and à Titre de Cens, in the Province of Lower Canada; and for the gradual conversion of those Tenures into the Tenure of Free and Common Soccage; and for other purposes relating to the said Province*, it is enacted, that whenever and so often as it should appear to the Governor, Lieutenant-Governor, or other person administering the Government of the late Province of Lower Canada, that the Surrender and Cession of any part of the Lands appropriated within the said late Province for the maintenance of a Protestant Clergy in the said Province, was necessary for quieting the Titles of any of His Majesty's subjects to Lands held or claimed by them, by occupancy, lawful prescription, transfer, or by doubtful titles, or was necessary, or would be convenient for the carrying on of any Public Buildings or Works, or for the more effectual settlement of any District or tract of Land within the said Province, or otherwise, for His Majesty's service, or for the benefit of the said Province, or of His Majesty's subjects therein resident; then, and in any or either of the cases aforesaid, it should and might be lawful for the Bishop of Quebec for the time being, on behalf of the said Protestant Clergy, in compliance with any requisition in writing to him for that purpose made by such Governor, Lieutenant-Governor or the person administering the Government of the said late Province, and he was thereby required, by a Deed under his hand and seal, duly attested by two or more credible witnesses, to surrender, yield up, and convey to His Majesty, His Heirs and Successors, the Lands comprised and described in any such requisition as aforesaid, in exchange for other Lands situate in the said late Province, of equal extent and value, to be by His Majesty appropriated and set apart for the support and maintenance of a Protestant Clergy therein; and that such Deed, so executed by the said Bishop of Quebec for the time being, should be valid and effectual in Law, to vest in His Majesty, His Heirs and Successors, all the Lands therein included and comprised; and that such Lands should and might, by His Majesty

Majesty, His Heirs and Successors, be re-granted and re-conveyed to any other person or persons, for quieting their possession and titles, or otherwise, as might from time to time be expedient or necessary, without any further appropriation of Land being thereupon made for the support of a Protestant Clergy ; And whereas there has not been appointed any successor to the late Bishop of Quebec, now deceased, and by reason thereof no effect can be given to the provisions aforesaid ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the duties, powers and authority conferred by the said Act, or by any other Act or Acts, or by any other authority whatsoever, on the Bishop of Quebec for the time being, shall devolve on the Bishop of Montreal for the time being, so long as there shall not be appointed a successor to the said late Bishop of Quebec ; and whenever there shall not be a Bishop of Quebec resident or being within the said Diocese of Quebec, and all Acts whatsoever on the part of the said Bishop of Montreal, executed in his official capacity of Bishop as aforesaid, shall be valid and effectual in as full and ample a manner as if he were Bishop of Quebec aforesaid.

The powers and duties assigned by the said Act or any other Acts to the Bishop of Quebec, to be vested in and performed by the Bishop of Montreal in certain cases.

CAP. XLIX.

An Act to Incorporate " Bishop's College" in the Diocese of Quebec.

[9th December, 1843.]

WHEREAS it has been represented to the Legislature of this Province, that divers Inhabitants of the said Province have used their efforts to establish a College, in connexion with the United Church of England and Ireland, near Lennoxville, in the Township of Ascot, in the District of Saint Francis, and within the Diocese of Quebec, under the style and title of " Bishop's College," and are engaged in erecting and establishing the same ; And whereas, it would tend greatly to advance and extend the usefulness of the said College, and to promote the purposes for which it was established, that it should be incorporated ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain

Preamble.

The Corporation of the Bishop's College of the Episcopal Diocese of Quebec.

Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that there shall be, and there is hereby constituted and established, at or near Lennoxville, in the Township of Ascot, in the District of Saint Francis, in this Province, and within the Diocese of Quebec, a Body Politic and Corporate, under the name of "Bishop's College," which Corporation shall consist of—Firstly, the Lord Bishop of Quebec, or other the Superior Ecclesiastical Functionary of the United Church of England and Ireland, in the said Diocese of Quebec,—Secondly, the Trustees of the said Bishop's College, not less than three in number,—and Thirdly, the College Council of the said Bishop's College, not less than three in number, which said Trustees, and the Members of the said College Council shall be named by the said Lord Bishop of Quebec, or other Superior Ecclesiastical Functionary as aforesaid, and shall, in the event of their death, removal from the Province, dismissal from office, or resignation, be replaced by other persons to be named in like manner, and so on continually forever.

Usual Corporate Powers.

II. And be it enacted, that such Corporation shall have perpetual succession, and may have a Common Seal, with power to change, alter, break and renew the same when and as often as they shall think proper; and the said Corporation may, under the same name, contract and be contracted with, sue and be sued, implead and be impleaded, prosecute and be prosecuted, in all Courts and places whatsoever in this Province, and shall have full power to make and establish such and so many rules, orders and regulations (not being contrary to the Laws of the Country or to this Act) as they shall deem useful or necessary, as well concerning the system of education in, as for the conduct and government of the said College, and of any other Institution or School connected with or dependent on the same, and of the Corporation thereof, and for the superintendence, advantage and improvement of all the property, moveable or immoveable, belonging to, or which shall hereafter belong to the said Corporation; and shall have power to take, under any legal title whatsoever, and to hold for the said College, without any further authority, License or Letters of Mortmain, all land and property moveable or immoveable, which may hereafter be sold, ceded, exchanged, given, bequeathed, or granted to the said Corporation, or to sell, alienate, convey, let or lease the same if need be: Provided always, that the net rents, issues and profits arising from the immoveable property of the said Corporation, shall not at any time exceed the annual sum of three thousand pounds, current money of this Province; and the said Corporation shall further have the right of appointing an Attorney or Attorneys, for the management of their affairs, and generally shall enjoy all the rights and privileges enjoyed by other Bodies Politic and Corporate, recognized by the Legislature: Provided always, that no rule, order or regulation which shall be made and established by the said Corporation in manner aforesaid, shall be of any

Corporation may hold property to a certain amount.

Proviso.

any force or effect until the same shall have been sanctioned and confirmed by the said Lord Bishop or other Ecclesiastical Functionary, as aforesaid.

III. And be it enacted, that all the property which shall at any time belong to the said Corporation, as well as the revenues thereof, shall at all times be exclusively applied and appropriated to the advancement of education in the said College, and to no other object, Institution or Establishment whatever, unconnected with or independent of the same.

To what purposes only the Revenues shall be applied.

IV. And be it enacted, that this Act shall be considered a public Act by all Judges, Justices of the Peace, and Officers of Justice, and by all other persons whomsoever, and shall be judicially taken notice of without being specially pleaded.

Public Act.

V. And be it enacted, that this Act shall not extend to weaken, diminish, or extinguish the rights and privileges of Her Majesty, Her Heirs and Successors, nor of any other person or persons, Body Politic or Corporate, excepting only such rights as are hereby expressly altered or extinguished.

Rights of the Crown saved.

C A P . L.

An Act to Incorporate the Education Society of the District of Quebec.

[9th December, 1843.]

WHEREAS there has existed in the City of Quebec, since the year one thousand eight hundred and twenty-two an Association known by the name of The Education Society of the District of Quebec, established for the purpose of providing civil and religious instruction for the children of the poor in the said City, and of forming Teachers competent to instruct children in the country parts of the said District : And whereas the persons hereinafter named, have, by their Petition, prayed that for the public advantage, the said Association may be Incorporated under proper regulations, and it is expedient to grant the prayer of their petition ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that Jean François Duval, Charles F.

Preamble.

Certain persons incorporated,

Corporate name and powers,

Property.

By-Laws.

F. Baillargeon, Patrick McMahon, Jacques Cremazie, and Joseph Petitchair, the present officers of the said association, and such other persons as now are or shall hereafter become members of the said association, according to the rules and regulations thereof, shall be and are hereby constituted a Body Politic and Corporate, by the name of "The Education Society of the District of Quebec," and shall, by that name, have perpetual succession and a Common Seal, with power to alter, renew, or change the same at pleasure, and shall by the said name, at all times hereafter, have power to purchase, acquire, hold, possess and enjoy, take, accept and receive for the use and purposes of the said Corporation, any lands, immoveable property or hereditaments, or any personal property of what nature soever within this Province, not exceeding in yearly value the sum of one thousand pounds, currency, and the same to sell, alienate, and dispose of, and others in their stead to purchase, acquire and hold, for the uses and purposes aforesaid; and the said Corporation may, by the said name, sue and be sued in all Courts of Law or Equity or other places whatever, in as large, ample, and beneficial a manner as any other Body Politic or Corporate in this Province, and shall have power and authority to make By-Laws, Rules, and Regulations not being contrary to this Act or to the Laws of this Province, for the government and management of the said Corporation and of the affairs and property thereof, and for the admission of Members thereof, and for all other purposes relating to the well being and interests of the said Corporation, and the same to amend, alter or repeal, from time to time, in such manner as they shall deem necessary or expedient.

Officers of the Corporation, and manner of electing them.

Proviso.

II. And be it enacted, that the Officers of the said Corporation shall be a President, two Vice Presidents, a Secretary and a Treasurer; and the affairs and business of the said Corporation shall be managed by a Committee to be composed of twenty members of the Corporation and the Officers aforesaid, who shall always be members of the said Committee; and the said Officers and other members of the Committee shall be annually elected by the majority of the votes (to be given by ballot,) of the members of the Corporation present at a meeting to be held for that purpose on the first Monday in the month of May, in each year: Provided always, that if the election be not had on that day, the Corporation shall not be dissolved, but the election may be had at a special meeting thereafter to be called for that purpose in the manner hereinafter provided, and in that case the Officers and members of the Committee in office, immediately before the said day, shall continue in office until their successors shall be elected.

Special meetings of the Corporation, how to be called, &c.

III And be it enacted, that the President, or in his absence, either of the Vice Presidents, may, at any time, on a requisition to him made and signed by any three members of the Corporation, call a special general meeting of the members of

of the Corporation, giving notice of such meeting and of the object thereof to each of the members, in such manner as may be provided for that purpose by the By-Laws of the Corporation; and at such special general meeting no other subject shall be discussed or decided upon except such as may necessarily relate to the object for which the meeting shall have been called.

IV. And be it enacted, that all and every the estates and property, real or personal of the said Association, at the time of the passing of this Act, and all debts due to or rights or claims possessed by the said Association at the said time, shall be and are hereby transferred to and vested in the Corporation hereby constituted, which shall in like manner be liable to and for all debts due by or claims upon the said Association; and the Officers and members of the Committee in office at the time of the passing of this Act, shall be the Officers and members of the Committee of the said Corporation, as if elected under this Act, until their successors shall be elected in the manner hereby appointed; and the Rules and Regulations of the said Association, at the time of the passing of this Act, shall be the By-Laws, Rules and Regulations of the said Corporation as if made under the provisions of this Act, until they be amended, altered or repealed in the manner hereinbefore provided.

Property of the former Association vested in the Corporation hereby established, who shall also be responsible for the debts of the Association.

V. And be it enacted, that no person shall be a member of the said Corporation unless such person shall have attained the full age of twenty-one years, and shall have been admitted as such in the manner prescribed by the By-Laws, Rules and Regulations of the Corporation then in force in that behalf.

Admission of new members regulated

VI. And be it enacted, that no By-Law, Rule or Regulation of the said Corporation shall be amended, altered or repealed, except with the consent of two thirds of the members of the Corporation, nor unless previous notice of such amendment, alteration or repeal shall have been given in writing at the general meeting next preceding that at which such amendment, alteration or repeal shall be discussed and determined upon.

By-laws not to be altered except by consent of two-thirds of the members.

VII. And be it enacted, that nothing herein contained shall have the effect, or be construed to have the effect, of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the members of the said Corporation, or any person whatsoever, individually liable or accountable for or by reason of any debt, contract, or security of the said Corporation, or for or on account or in respect of any matter or thing whatsoever relating to the said Corporation.

Members not to be personally liable for debts of the Corporation.

VIII. And be it enacted, that nothing herein contained, shall affect or be construed to affect, in any manner or way the rights of Her Majesty, Her Heirs or Successors,

Rights of the Crown saved.

Successors, or of any person or persons, or of any Body Politic or Corporate, such only excepted, as are hereinbefore mentioned and provided for.

Act to be a
public Act.

IX. And be it enacted, that this Act shall be deemed a public Act, and shall be publicly taken notice of as such by all Judges, Justices of the Peace, and other persons whatsoever, without being specially pleaded.

C A P. LI.

An Act to incorporate the Association called "La Congrégation de Notre Dame de Québec."

[9th December, 1843.]

Preamble.

WHEREAS there hath existed for many years in the City of Quebec, in this Province, an Association known by the names of "Les Congréganistes de Notre Dame," or "La Congrégation de Notre Dame," or "La Congrégation des Hommes," the objects whereof are of a religious nature and tend to encourage morality and the practice of works of Charity; And whereas the said Association is composed of the persons hereinafter mentioned and others, who have, by their petition, represented that the benefits resulting from the said Association would be augmented and ensured by its incorporation, and have prayed that they, and their successors, may be incorporated under the regulations and provisions hereinafter set forth; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that Charles Alfred Besse, Louis Bilodeau, Charles Cinq-Mars, Raphael Martin, Louis Lemieux, François Xavier Julien, Mathurin Hamoniaux, Charles Routier, Edouard Paquet, George S. Audet, Thomas Gauvin, Gaspard Lortie, and such other persons as now are or may hereafter, under the provisions of this Act, and the By-Laws of the said Association, become members thereof, and their successors shall be and they are hereby constituted a Body Politic and Corporate, by the name of "La Congrégation de Notre Dame de Québec," and shall by that name have perpetual succession and a Common Seal, with power to break, change or alter the same at pleasure, and may, by the said name, from time to time, and at all times hereafter, purchase, acquire, hold, possess and enjoy, and may take and receive for them and their successors,

Certain persons and their successors incorporated.

Corporate name and powers.

successors, to and for the uses and purposes of the said Corporation, any estates or property, real or immoveable, or personal within this Province, and not exceeding in yearly value the sum of one thousand pounds, currency, and the same may sell, alienate or dispose of, and others in their stead may purchase and acquire to and for the uses and purposes aforesaid, and they may by the said name sue and be sued in all Courts of Law or Equity, or other places whatsoever, in as large, ample and beneficial a manner as any other Body Politic or Corporate can or may do in this Province.

II. And be it enacted, that all real or immoveable or personal property, or estates whatsoever, of or belonging to the said Association, and more especially the lot of ground granted for the use and purposes of the said Association by Letters Patent, bearing date the nineteenth day of November, in the year of our Lord, one thousand eight hundred and seventeen, and upon which the said Association has caused a Chapel to be erected, and all such property as may hereafter be acquired by the said Association, or the Members thereof, in their capacity as such, and all debts due to or rights and claims possessed by the said Association at the time of the passing of this Act, shall be and are hereby transferred to and vested in the Corporation hereby constituted, which shall, in like manner, be liable to and for all debts due by or claims upon the said Association.

Property of the former Association vested in the Corporation, which shall be liable for claims upon the Association

III. And be it enacted, that the By-Laws, Rules and Regulations of the said Association, in force at the time of the passing of this Act, shall be and continue to be the By-laws, Rules and Regulations of the said Corporation until they shall be altered, amended or repealed in the manner therein provided; and the Officers of the said Association, at the time of the passing of this Act, and each of them, shall continue to hold their respective offices as Officers of the said Corporation and for the administration and management of the affairs and business thereof, until others shall be elected in their stead, in the manner by the said By-laws, Rules and Regulations prescribed.

By-Laws of the Association to be those of the Corporation until altered.

IV. And be it enacted, that nothing herein contained shall have the effect, or be construed to have the effect of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the Members of the said Corporation, or any person whatsoever, individually liable or accountable for or by reason of any debt, contract, or security contracted or incurred for or by reason of the said Corporation, or for or on account or in respect of any matter or thing whatsoever relating to the said Corporation.

Members of the Corporation not to be personally liable for claims upon it.

V. And be it enacted, that nothing herein contained shall affect or be construed to affect, in any manner or way, the rights of Her Majesty, Her Heirs or Successors, or

Rights of the Crown, &c. saved.

or of any person or persons, or of any Body Politic or Corporate, such only excepted as are hereinbefore mentioned and provided for.

Act to be a
public Act.

VI. And be it enacted, that this Act shall be deemed a public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and other persons whatsoever, without being specially pleaded.

C A P. LII.

An Act to Incorporate the Ladies of the Protestant Orphan Asylum of the City of Montreal.

[16th November, 1843.]

Preamble.

WHEREAS an Association has existed for several years, in the City of Montreal, in this Province, under the name of "The Ladies of the Protestant Orphan Asylum of the City of Montreal," for the purpose of providing for the relief, support, and education of destitute and friendless Orphans of the Protestant persuasion in the said City, and has maintained, instructed, and placed out as apprentices, a large number of such Orphans as aforesaid; And whereas the Association is composed of the several persons hereinafter mentioned, who have, by their petition, represented that the advantages arising from the said Association, would be greatly extended and confirmed by the legal Incorporation thereof, and have prayed that they and their successors may be incorporated under certain regulations and provisions hereinafter mentioned; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council, and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada and for the Government of Canada*, and it is hereby enacted by the authority of the same, that Susanna Holmes Wilkes, Elizabeth McGillivray Reid, Jane Davidson Ross, Ann Ross McCord, Mary McGillivray, Jane Moffatt, Isabella Geddes Sewell, Juliet Wadsworth Holmes, P. A. Wishart Macnider, Susanna Lyman Corse, Ann Jones Corse, Sarah Stilson Farquhar, Elisa Ross, Isabella Boston, Catherine Farquhar, Mary Corse Lyman, Margaret Barret, Agnes Munn Fisher, Henriette Platt Geddes, Agnes Armour Ramsay, Elisabeth Campbell Esson, Elizabeth Irvine Gunn, Charlotte Grace Leslie, and such other persons as shall, under the provisions of this Statute become members of the said Institution shall be and are hereby declared to be a Body Politic and Corporate in deed and in name, by the name of "The Ladies of the Protestant Orphan Asylum of the City of Montreal," and by that name shall have

Certain Ladies
Incorporated
by the name of
"The Ladies
of the Protes-
tant Orphan
Asylum of the
City of Mont-
real."

have perpetual succession and a Common Seal, and shall have power from time to time to alter, renew, or change such Common Seal at their pleasure, and shall by the same name, from time to time, and at all times hereafter be able and capable to purchase, acquire, hold, possess and enjoy, and to have, take and receive to them and their successors, to and for the uses and purposes of the said Corporation, any lands, tenements and hereditaments, and real or immoveable property and estate, situate, lying and being within this Province, not exceeding in yearly value the sum of one thousand pounds, currency, and the same to sell, alienate and dispose of, and to purchase others in their stead for the same purpose; and by the same name shall and may be able and capable in Law to sue and be sued, implead and be impleaded, answer and be answered unto in all Courts of Law and places whatsoever, in as large ample and beneficial a manner as any other Body Politic or Corporate, or as any persons able or capable in Law may or can sue and be sued, implead and be impleaded, answer and be answered unto, in any manner whatsoever, and shall have power and authority to make and establish such Rules, Orders and Regulations not being contrary to this Statute, nor to the Laws in force in this Province, as shall be deemed useful or necessary for the interests of the said Corporation and for the management thereof, and for the admission of members into the said Corporation, and from time to time, to alter, repeal and change the said Rules, Orders, and Regulations or any of them, and shall and may do, execute and perform, all and singular other the matters and things relating to the said Corporation and the management thereof, which shall or may appertain thereto; subject nevertheless, to the rules, regulations, stipulations and provisions hereinafter prescribed and established.

Corporate powers granted.

Common Seal.

May hold property.

Value of property limited.

May sue and be sued.

May make By-laws.

Other powers.

II. And be it enacted, that an annual general meeting of the members of the said Corporation shall be held on the first Tuesday of the month of January in each and every year, or if any such Tuesday be a holy day, or if the election be not for any cause then had, then on such day as shall be appointed in the manner hereinafter mentioned, for the annual election of Directresses and Managers, a Secretary and Treasurer of the said Association, as to the said Corporation shall seem meet, by and through the majority of such members present at such general meeting, and for the transaction of all matters and things relating to the said Corporation for the year preceding the said first Tuesday of the said month of January, and for the adjustment and settlement of the transactions and business of the said Corporation for the said preceding year: Provided always, that the said Corporation, on a requisition signed by not less than five of the members thereof, shall, by a notice to be inserted for not less than seven days in one or more of the newspapers published in the City of Montreal, call a general meeting of the members of the said Corporation, specifying the hour, day, place and object of the said meeting; and the members aforesaid or the majority thereof at such general meeting aforesaid, shall have

Annual General Meeting of the Corporation when and how to be held.

Extraordinary General Meetings may be called, and in what manner.

Power of any such extraordinary General Meeting.

have power and authority to revise, alter or rescind any Rules, Orders and Regulations for the management of the Corporation, after notice of such repeal or alteration shall have been given at a general meeting next immediately preceding that at which such application shall be made and considered, and to admit new members, and to fill up all vacancies which may occur among the said Directresses and Managers, Secretary and Treasurer aforesaid, and generally to do and perform all such matters and things as may be conducive to the well being of the said Corporation.

Property now held by the Association vested in the Corporation.

III. And be it enacted, that all and every the estate and property, real and personal, belonging to, or hereafter to be acquired by the said members of the said Association, as such, and all debts, claims and rights whatsoever due to them in that quality shall be and are hereby vested in the Corporation hereby established; and the Directresses, Managers, Secretary and Treasurer appointed or to be appointed before such annual general meeting shall be held, shall be and continue to be the Directresses, Managers, Secretary and Treasurer of the said Corporation, until others in their stead or the same shall be elected at such annual general meeting, in the manner herein provided; and the Rules, Orders and Regulations now made or to be made for the management of the said Association shall be and continue to be the Rules, Orders and Regulations of the said Corporation until altered or repealed in the manner herein provided; and the said Rules, Orders and Regulations shall be submitted to the members aforesaid for their approval and confirmation, at such general meeting aforesaid.

Present Directresses, &c. to continue in Office until the next General Meeting.

The present Rules and Regulations shall continue in force until the same time.

Directresses and Managers may appoint Officers and Servants of the Corporation.

And shall have other powers requisite for the well being of the Corporation.

No member of the Corporation or other person to be individually liable for any Debt, &c., of the Corporation.

IV. And be it enacted, that the said Directresses and Managers for the time being, shall have power to appoint such officers and servants of the said Corporation, as shall be necessary for the well conducting of the business of the same; and to allow to them such compensation for their services, respectively, as shall be reasonable and proper, and the said Directresses and Managers shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation, as shall be prescribed by the Rules, Orders and Regulations of the said Corporation.

V. And be it enacted, that nothing herein contained shall have the effect, or be construed to have the effect, of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the members of the said Corporation, or any person whatsoever, individually liable or accountable for or by reason of any debt, contract, or security for or by reason of the said Corporation, or for or on account, or in respect of any matter or thing whatsoever relating to the said Corporation.

VI. And be it enacted, that it shall not be necessary for the validity of any Act performed by any married woman, as a member of the said Corporation, or to her becoming such, that she be thereunto specially authorized by her husband; any Law, usage, or custom to the contrary notwithstanding.

Married women being members of the Corporation, need not be specially authorized to act as such.

VII. And be it enacted, that nothing herein contained, shall affect or be construed to affect in any manner or way the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any Body Politic or Corporate, such only excepted, as hereinbefore mentioned and provided for.

Rights of Her Majesty and others saved.

VIII. And be it enacted, that this Act shall be deemed a public Act, and shall be publicly taken notice of as such by all Judges, Justices of the Peace, and other persons whatsoever, without being specially pleaded.

Public Act.

C A P . LIII.

An Act to incorporate the Ladies of the Committee of Management of the Montreal Lying-in Hospital.

[16th November, 1843.]

WHEREAS an association has, for some time past, existed in the City of Montreal, in this Province, for conducting and managing a Lying-in Hospital, in the said City, designed for the Relief of distressed Females, who from their poverty are unable to procure that comfort and support for the want of which, not only their own lives but the lives of their offspring are placed in jeopardy; And whereas the persons hereinafter named, being members of the said Association, have, by their petition, represented that the advantages resulting from the Association would be greatly increased, if the members thereof were incorporated under proper regulations, and have prayed to be incorporated accordingly, and it is expedient to grant the prayer of their petition for the purpose of encouraging the laudable efforts of the said Association, and promoting the public advantages which must arise from the same; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same that Elizabeth Platt, Jane Vallières, Mary Mathewson, Sarah Campbell, Isabella Dorwin,

Preamble.

Names of present Mem.

bers of the Institution.

Incorporation of the said Members and their Successors.

Corporate Name, and powers.

Corporation may make By-Laws.

General meeting of the Members.

Officers to be appointed.

Dorwin, Helen C. Hutchison, Emma M. Crawford, Jessie Speirs, Charlotte M. Archibold, Sarah Anna Prowse, Elizabeth Esson, Primrose M. Lindsay, Jane Lavicomte, Seraphina McKenzie, Angelique C. Delisle, Elizabeth Ogden, Amelie Berthelot, A. B. Larocque, L. Lacombe, Delphine Levesque, E. L. Perrault, Henrietta Ross, Martha Court, Amelia Boucher, M. J. White, Sarah Smith, Fanny Donoughue, M. G. Murray, P. A. Macnider, C. A. Rudyerd, Mary Kay, M. A. E. Guy, and such other persons as shall, under the provisions of this Statute, become members of the said Association, shall be and are hereby declared to be a Body Politic and Corporate, in deed and in name, by the name of "The Ladies of the Committee of Management of the Montreal Lying-in Hospital," and by that name shall have perpetual succession and a Common Seal, and shall have power from time to time to alter, and renew or change such Common Seal at their pleasure, and shall by the same name, from time to time, and at all times hereafter, be able and capable to purchase, acquire, hold, possess and enjoy, and to have, take and receive to them and their successors, to and for the uses and purposes of the said Corporation, any lands, tenements and hereditaments, and real or immoveable property and estate, lying and being within this Province, not exceeding in yearly value the sum of one thousand pounds, currency, and the same to sell, alienate and dispose of and to purchase others in their stead for the same purpose; and by the same name shall and may be able and capable in Law, to sue and be sued, implead and be impleaded, answer and be answered unto, in all Courts of Law and places whatsoever, in as large, ample and beneficial a manner as any other Body Politic or Corporate, or as any persons able or capable in Law may or can sue, or be sued, implead or be impleaded, answer or be answered unto, in any manner whatsoever, and shall have power and authority to make and establish such Rules, Orders and Regulations, not being contrary to this Statute, or to the laws in force in this Province, as shall be deemed useful or necessary for the interests of the said Corporation, or for the management thereof, and for the admission of Members into the said Corporation, and from time to time to alter and amend, repeal or change the said Rules, Orders and Regulations, or any of them, and shall and may do, execute and perform, all and singular other the matters and things relating to the said Corporation, and the management thereof, or which shall or may appertain thereto, subject nevertheless to the Rules, Regulations, Stipulations and Conditions hereinafter prescribed and established.

II. And be it enacted, that an annual general meeting of the Members of the said Corporation, shall be held on the third Monday of the month of January in each and every year, (or if such day be a holy day, or if the Election hereinafter mentioned be not for any cause then had, then on such day as shall be appointed in the manner hereinafter mentioned) for the Annual Election of a Directress or Directresses, and Managers, a Treasurer and Secretary, and such other Officers

cers of the said Corporation, as to the said Corporation shall seem meet, by and through the majority of the Members present at such General Meeting, and for the transaction of all other matters and things relating to the affairs of the said Corporation for the year preceding such Annual Meeting and for the adjustment and settlement of the accounts and business of the said Corporation for the then preceding year : Provided always, that the said Corporation, on a requisition signed by not less than five of the Members thereof, may, at any time, by a notice to be inserted for not less than seven days, in one or more of the Newspapers published in the City of Montreal, of which the *Montreal Gazette* shall be one, if then published, call a General Meeting of the Members of the said Corporation, specifying the hour, day, place and object of the said Meeting ; and the Members of the Corporation, or any majority thereof, at such extraordinary Meeting as aforesaid, shall have power and authority to make, revise, alter or rescind, any Rules, Orders and Regulations for the management of the Corporation, after notice of any motion for introducing any new Rule, or for any such repeal or alteration, shall have been given at the general or extraordinary Meeting next immediately preceding that at which such motion shall be made and considered, and to admit new Members, and to fill up all vacancies which may occur among the said Directress or Directresses, and Managers, Secretary and Treasurer, aforesaid, and generally to do and perform all such matters and things as may be conducive to the well being of the said Corporation.

Proviso.
Special Meetings, how called.

III. And be it enacted, that all and every the estate and property, real and personal, now belonging to or hereafter to be acquired by the Members of the said Association as such, and all debts, claims and rights whatsoever due to them in that quality, shall be and are hereby vested in the Corporation hereby established ; and the Directress or Directresses, Managers, Secretary and Treasurer, appointed or to be appointed before the first Annual General Meeting shall be held under the authority of this Act, shall be and continue to be the Directress or Directresses, Managers, Secretary and Treasurer of the said Corporation, until others in their stead or the same shall be elected at such Annual General Meeting, in the manner herein provided ; and the Rules, Orders and Regulations now made or to be made for the management of the Association herein first mentioned, shall be and continue to be the Rules, Orders and Regulations of the said Corporation, until altered or repealed in the manner herein provided, and the said Rules, Orders and Regulations shall be submitted to the Members of the said Corporation for their approval and confirmation at such first General Meeting as aforesaid, at which time they may be confirmed, rejected, altered or amended, or new Rules substituted for them, without any previous notice ; anything herein contained to the contrary notwithstanding.

Property of the present Association vested in the Corporation.

Present Officers continued until others are appointed.

And the present By-Laws.

Directresses
and Managers
to appoint Ser-
vants and Of-
ficers of the
Corporation,
&c.

IV. And be it enacted, that the Directress or Directresses and Managers for the time being, shall have power to appoint such Officers and Servants of the said Corporation as shall be necessary for the well conducting of the business of the same, and to allow to them such compensation for their services, respectively, as shall be reasonable and proper; and the said Directresses and Managers shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation as shall be prescribed by the Rules, Orders and Regulations of the said Corporation.

Members not
to be liable in-
dividually for
the engage-
ments of the
Corporation.

V. And be it enacted, that nothing herein contained shall have the effect, or be construed to have the effect of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the Members of the said Corporation, or any person whomsoever individually liable or accountable for or by reason of any debt, contract or security incurred or entered into for or by reason of the said Corporation, or for or on account, or in respect of any matter or thing whatsoever relating to the said Corporation.

Married
Members need
not be specially
authorized by
their husbands
for the purpo-
ses of this Act.

VI. And be it enacted, that it shall not be necessary to the validity of any Act, performed by any married woman, as a Member of the Corporation, or to her becoming such, that she be thereunto specially authorized by her husband; any Law, usage or custom to the contrary notwithstanding.

Rights of the
Crown saved.

VII. And be it enacted, that nothing herein contained, shall be construed to affect in any manner or way the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any Body Politic or Corporate, such only excepted as are hereinbefore mentioned and provided for.

This Act to
be a Public
Act.

VIII. And be it enacted, that this Act shall be deemed a public Act, and shall be publicly taken notice of as such by all Judges, Justices of the Peace, and other persons whomsoever, without being specially pleaded.

C A P . LIV.

An Act to incorporate "Les Dames Religieuses du Sacré Cœur de Jésus," of the Parish of St. Jacques de L'Achigan, in the District of Montreal, for the purposes of Education.

[9th December, 1843.]

Preamble.

WHEREAS an Association of Religious Ladies has existed for several years in the Parish of St. Jacques de L'Achigan, in the county of Leinster and

and District of Montreal, under the name of “ Les Dames Religieuses du Sacré Cœur de Jésus,” for the Instruction and Education of young persons of the female sex, and has, at great expense, provided suitable buildings for the said purpose, and has instructed and educated a great number of young persons, many of them gratuitously, and the remainder at very moderate rates ; And whereas the said Ladies have, by their petition, prayed that the said Association may be Incorporated, and in consideration of the great benefits which must arise from the Institution, it is expedient to grant their prayer ; Be it therefore enacted by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,*” and it is hereby enacted by the authority of the same, that Marie Michelle, Ursule Sallion, Séraphine Constantine, Josephite Avignon, Claire Henriette de Kersaint, Mary Anne Roche, Euphrosine Eméline Lévêque, and Johana Alphonsine Shannon, and such other persons as shall, under the provisions of this Act, become members of the said Institution, shall be and are hereby declared to be a Body Politic and Corporate in deed and in name, by the name of “ Les Dames Religieuses du Sacré Cœur de Jésus,” and by that name shall have perpetual succession, and a Common Seal, and shall have power from time to time to alter, renew or change such Common Seal at their pleasure, and shall by the same name, from time to time, and at all times hereafter be able and capable to purchase, acquire, hold, possess and enjoy, and to have, take and receive to them and their successors, to and for the uses and purposes of the said Corporation, any lands, tenements, and hereditaments, and real or immoveable property and estate, situate, lying and being within this Province, not exceeding in yearly value the sum of three thousand pounds currency, and the same to sell alienate and dispose of, and to purchase others in their stead for the same purpose ; and by the said name shall and may be able and capable in Law, to sue and be sued, implead and be impleaded, answer and be answered unto in all Courts of Law and places whatsoever, in as large, ample and beneficial a manner as any other Body Politic or Corporate, or as any persons able or capable in Law may or can sue and be sued, implead and be impleaded, answer and be answered unto, in any manner whatsoever ; and any majority of the members of the Corporation, for the time being, shall have power and authority to make and establish such Rules, Orders and Regulations, not being contrary to this Act nor to the Laws in force in this Province, as shall be deemed useful or necessary for the interests of the said Corporation, and for the management thereof, and for the admission of members into the said Corporation, and, from time to time, to alter, repeal, and change the said Rules, Orders and Regulations, or any of them, or those of the said Association

Certain Ladies
Incorporated.

Corporate
name, and
powers.

By-Laws.

tion in force at the time of the passing of this Act, and shall and may do, execute, and perform, all and singular other the matters and things relating to the said Corporation, and the management thereof, or which shall or may appertain thereto; subject nevertheless to the Rules, Regulations, Stipulations and Provisions hereinafter prescribed and established.

To what purposes the Revenues of the Corporation shall be applied.

II. Provided always, and be it enacted, that the rent, revenues, issues and profits of all property, real or personal, held by the said Corporation, shall be appropriated and applied solely to the maintenance of the members of the Corporation, the construction and repair of the buildings requisite for the purposes of the Corporation, and to the advancement of Education, and the payment of the expenses to be incurred for objects legitimately connected with or depending on the purposes aforesaid.

Property of the present Association vested in the Corporation, and its By-Laws made those of the Corporation until altered.

III. And be it enacted, that all and every the estate and property, real and personal, belonging to, or hereafter to be acquired by the said Members of the said Association, as such, and all debts, claims and rights whatsoever due to them in that quality, shall be, and are hereby vested in the Corporation hereby established; and the Rules, Orders and Regulations now made, or to be made for the management of the said Association, shall be, and continue to be the Rules, Orders and Regulations of the said Corporation, until altered or repealed in the manner hereinafter provided.

Corporation may appoint Attornies, Officers, &c.

IV. And be it enacted, that the Members of the said Corporation, for the time being, or a majority of them, shall have power to appoint such Attorney or Attorneys, Administrator or Administrators of the property of the Corporation, and such Officers and Teachers and Servants of the said Corporation as shall be necessary for the well conducting of the business and affairs thereof, and to allow to them such compensation for their services, respectively, as shall be reasonable and proper; and all Officers so appointed shall be capable of exercising such other powers and authority for the well governing and ordering of the affairs of the said Corporation, as shall be prescribed by the Rules, Orders and Regulations of the said Corporation.

Individual members not to be liable for the debts of the Corporation.

V. And be it enacted, that nothing herein contained shall have the effect or be construed to have the effect of rendering all or any of the said several persons hereinbefore mentioned, or all or any of the Members of the said Corporation, or any person whatsoever, individually liable or accountable for, or by reason of any debt, contract or security incurred or entered into for or by reason of the said Corporation, or for or on account or in respect of any matter or thing whatsoever relating to the said Corporation.

VI.

VI. And be it enacted, that nothing herein contained shall affect or be construed to affect, in any manner or way, the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any Body Politic or Corporate, such only excepted as are hereinbefore mentioned and provided for.

Rights of the
Crown saved.

VII. And be it enacted, that this Act shall be deemed a public Act, and shall be publicly taken notice of as such by all Judges, Justices of the Peace, and other persons whatsoever, without being specially pleaded.

Act to be
public Act.

C A P. LV.

An Act to authorize the Superior and Directors of the Seminary of Quebec, to acquire and hold a certain amount of property, in addition to that now held by them.

[16th November, 1843.]

WHEREAS the Superior and Directors of the Seminary of Quebec, have by their Petition to the Legislature, prayed that they may be authorized to acquire and hold to and for the use of the said Seminary, a certain amount of property, in addition to that now held by them : And whereas by reason of the great public utility of the said Institution, it is expedient to grant the prayer of the said Petition ; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council, and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall be lawful for the Superior and Directors of the Seminary of Quebec, for the time being, and for their successors in office, to acquire or take by donation, devise, or otherwise, and to hold to and for the use and for the purposes of the said Institution, any property real or immoveable in this Province, or any *constituts*, or *rentes foncières* secured on such property, or any money or shares in the Public Funds of the United Kingdom, or secured by any Debentures on the Public Revenue of this Province, or any other property whatever, yielding a fixed and permanent income or revenue not exceeding one thousand pounds, currency, per annum, in addition to such property as at the time of the passing of this Act they shall lawfully hold for the use and purposes of the said Seminary, and when need shall be

Preamble.

The Seminary of Quebec empowered to acquire and hold additional property to a certain annual value.

Capital paid
to the Semina-
ry may be re-
invested.

be to receive payment of the Capital of any sum of money secured as aforesaid, and to invest the same in other property of any of the kinds aforesaid, producing an annual income, provided the total amount of the annual income derived from property so held at any time under the authority of this Act, shall not exceed the sum of one thousand pounds, currency, aforesaid ; any thing in the Laws commonly called the Laws of Mortmain, or in any other Law or Statute whatsoever, to the contrary notwithstanding.

C A P . LVI.

An Act to renew and continue for a certain time, the privileges granted by a certain Act of Lower Canada therein mentioned, to Alexis Gosselin and his heirs and assigns, with regard to a certain Bridge over the River Boyer, in the County of Bellechasse.

[9th December, 1843.]

Preamble.

Act of L. C.
52 G. 3, c. 20,
cited.

WHEREAS, by the third section of the Act of the Legislature of Lower Canada, passed in the fifty-second year of the Reign of His late Majesty, King George the Third, and intituled, *An Act to grant to Alexis Gosselin, a right of Toll over the Bridge erected on the River Boyer, in the County of Hertford*, it was among other things enacted, that the Tolls granted by the said Act should be vested in the said Alexis Gosselin, his heirs and assigns, for the space of twenty-five years from the passing of the said Act, and that at the expiration of that period the possession and property of the Bridge, Toll-house, Toll-gate, and other dependencies of the Bridge in the said Act mentioned, and the Roads leading to and from the same, should belong to His said Majesty, His Heirs and Successors, and be free for public use, without His said Majesty, His Heirs or Successors being in any way held to indemnify the said Alexis Gosselin, his heirs or assigns for the same ; And whereas the said term of twenty-five years hath expired : And whereas, before the expiration thereof Marie Elizabeth Gosselin, wife of Alexander Fraser, of the County of Bellechasse, in the District of Quebec, cultivator, had become the proprietor of the said Bridge, Tolls, and other property aforesaid, by virtue of and assignment thereof, to her made by the said Alexis Gosselin, and the said Alexander Fraser hath by his Petition prayed that the privileges granted by the said Act may be renewed and continued for a certain time in favor of his said wife, her heirs and assigns, and the said Bridge being now fallen into decay, and in need of considerable repairs, which the said Marie Elizabeth Gosselin is willing to cause to be made, it will be advantageous to the public

public that the prayer of the said Petition be granted ; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the Tolls in and by the said Act established, (except as hereinafter provided,) and all the privileges and advantages thereby granted to the said Alexis Gosselin, shall be and are hereby renewed in favor of and vested in the said Marie Elizabeth Gosselin, her heirs and assigns, for and during the space of Twenty Years from the passing of this Act, as fully and effectually as if by the third section of the Act first cited, they had been vested in the said Alexis Gosselin, his heirs and assigns, until the end of the term herein last mentioned ; and until the end of the said twenty years from the passing of this Act, the said Marie Elizabeth Gosselin, her heirs and assigns, shall accordingly have possession of the said Bridge, Toll-house, Toll-gate, and other dependencies, and the roads leading to the same, the property whereof shall nevertheless continue to be vested in Her Majesty, Her Heirs and Successors, and shall at the end of the said term of twenty years be free for public use, without Her Majesty, Her Heirs or Successors being in any way held to indemnify the said Marie Elizabeth Gosselin, her heirs or assigns, for the same : Provided always, that to entitle themselves to the benefit of this Act, the said Marie Elizabeth Gosselin, her heirs or assigns, shall, within one year from the passing of this Act, make the said Bridge and Roads safe and passable for travellers and carriages of all kinds, otherwise the privileges granted to them by this Act shall wholly cease and determine, and shall maintain the same thereafter in repair, in the manner provided by the Act first above cited, subject to all the provisions thereof, and under the penalties and forfeitures therein mentioned, in case of their default.

II. Provided always, and be it enacted, that at any time before the expiration of the said term of twenty years, it shall and may be lawful for Her Majesty, Her Heirs and Successors to assume the possession of the said Bridge, and of the dependencies thereof, and the Tolls thereon, upon paying to the said Marie Elizabeth Gosselin, her heirs or assigns, the full and entire value which the rights and privileges hereby granted to her and them, may be worth for that portion of the said term of twenty years then remaining unexpired, such value to be ascertained, in case of difference of opinion, in the manner provided by law with regard to Property taken by the Board of Works for the public service.

III. Provided also, and be it enacted, that instead of the Tolls appointed by the Act herein first above cited, to be taken on the Vehicles hereinafter mentioned

The privileges granted by the said Act renewed for the period of 20 years in favor of the representative of the party to whom they were granted by the said Act.

Proviso.

Her Majesty may assume possession of the Bridge and Tolls, on paying the value of the then unexpired term.

Certain alterations in the Tolls made.

tioned, before their passage over the said Bridge shall be permitted, the following Tolls, and no greater, shall be taken before such passage be permitted; that is to say, for each four wheeled coach, loaded or unloaded, with the driver and four persons or less, drawn by two or more horses or other beasts of draught, nine pence, currency; for each wagon or other four wheeled carriage, loaded or not loaded, with the driver and four persons or less, drawn by one or by two horses, or other beasts of draught, six pence, currency; for each chaise, calash, chair with two wheels, or carriole, or other such carriage, loaded or unloaded, with the driver and two persons or less, drawn by two horses or other beasts of draught, five pence, currency; but in all other cases the Tolls fixed by the said Act shall be those to be taken in like cases, under the authority of this Act.

Act to be a
public Act.

IV. And be it enacted, that this Act shall be deemed a public Act, and shall be judicially noticed as such by all Judges, Justices and others whomsoever, without being specially pleaded.

C A P. LVII.

An Act to amend the Act Incorporating the Tay Navigation Company.

[9th December, 1843.]

Preamble

WHEREAS, by reason of the great delays which have occurred in obtaining the awards of Arbitrators in cases of disagreement between the Tay Navigation Company and the parties to whom the said Company is bound to make compensation for damages occasioned by their operations under the Act hereinafter mentioned, it is expedient to amend the said Act by repealing so much thereof as requires such arbitration before such damages can be assessed by a Jury; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that so much of the fifteenth, sixteenth, seventeenth, and twenty-sixth sections, or of any other part of the Act of the Legislature of the late Province of Upper Canada, passed in the first year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to incorporate certain persons therein mentioned, under the style and title of the Tay Navigation Company*, as makes it necessary that an award of Arbitrators

Certain parts
of the Act of
Upper Canada,
W. 4, c. 10,
repealed.

tors should be made, before the compensation to be paid to any party for property taken or damage done by the said Company in carrying into effect the powers granted them by the said Act, can be assessed by a Jury in the manner therein provided, shall be and so much of the said Act is hereby repealed ; and from and after the passing of this Act, if any party shall be entitled to or claim compensation from the said Company for any such damages as aforesaid, it shall be lawful for such party or for the said Company, without any previous award of arbitrators, to serve a notice on the other party in the manner provided by the seventeenth section of the said Act, as either party might have done without this Act, if such award had been first obtained ; and after such notice all other proceedings shall be had, and the compensation shall be assessed by a Jury, in the manner by the said Act provided, and with the same effect to all intents and purposes whatsoever : Provided always, that the expense of causing such compensation to be assessed as aforesaid, shall be paid by the said Company, unless, before the service of the notice above mentioned, they shall have tendered as such compensation, a sum equal to or greater than that assessed by the Jury ; anything in the said Act to the contrary notwithstanding.

Damages may be assessed without previously obtaining an award of Arbitrators.

Proviso,—as to the expenses of the proceeding.

CAP. LVIII.

An Act to authorize the Court of Queen's Bench and the High Court of Chancery, at their discretion, to admit Samuel Bealey Harrison to practise as an Attorney and Solicitor thereof, respectively.

[9th December, 1843.]

WHEREAS the Honorable Samuel Bealey Harrison, of the Town of Kingston, Barrister at Law, hath by his Petition represented, that he was called to the Bar by the Honorable the Society of the Middle Temple, in England, and hath been duly admitted as a Barrister in all the Courts of Upper Canada, and the said Petitioner hath prayed that the High Court of Chancery in this Province, and the Court of Queen's Bench for Upper Canada, may be authorized in their discretion to admit him to practise as a Solicitor and as an Attorney in the said Courts, respectively ; And whereas it is expedient to grant the prayer of the said Petition ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted

Preamble.

The Court of Chancery and the Court of Q. B. for Upper Canada may in their discretion admit S. B. Harrison as a Solicitor and Attorney therein.

enacted by the authority of the same, that it shall be lawful for the High Court of Chancery in this Province, in its discretion, to admit the said Samuel Bealey Harrison to practise as a Solicitor in the said Court, and for the Court of Queen's Bench for Upper Canada, in its discretion, to admit him as an Attorney of the said last named Court; any law, usage or custom to the contrary notwithstanding.

CAP. LIX.

An Act to authorize the Chairman of the Committee of the Canada Inland Forwarding and Insurance Company to sue for and recover debts due to the Company.

[9th December, 1843.]

Preamble.

WHEREAS, on the twenty-second day of January, one thousand eight hundred and thirty-three, by articles of Association, bearing date at Montreal, on the last mentioned day, certain persons did associate themselves together by a limited copartnership for the purpose of carrying on the Forwarding Business, and insuring Boats, and Vessels, and Goods, and Produce laden therein, upon all or any of the inland waters of Upper or Lower Canada, and for other purposes, in the said articles of Association set forth, by and under the name and style of the "Canada Inland Forwarding and Insurance Company": And whereas the said Company did accordingly, in conformity with the said articles of Association, use, exercise and carry on the said trade and business, in the course whereof large sums of money became due and owing to them by and from various persons, with whom the said Company had dealings, and likewise by and from certain office-holders in the said Company, and do still so remain, to the recovery whereof certain difficulties and legal impediments do exist: And whereas it is expedient that these impediments and difficulties should be removed, and that in conformity with the said articles of Association, the Chairman, for the time being of each of the Committees of the said Company should be empowered to sue and be sued; and to collect and recover all debts to the said Company due and owing, and to enforce all and every the claims against the several and respective officers thereof, and all other persons whomsoever; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the

the authority of the same, that from and after the passing of this Act, it shall be lawful for the Honorable Adam Ferrie, of the City of Montreal, Esquire, Merchant, in his capacity of Chairman of one of the said Committees duly appointed, according to the terms of the said articles of Association, and for his successors in office, to be hereafter in like manner duly appointed, to sue and be sued, plead and be impleaded, answer and be answered unto, in all Courts and places, and in all actions and complaints whatsoever, according to the terms, intent and meaning of, and for all and every the purposes set forth and mentioned in the said articles of Association, for which the Chairman, for the time being is, by the said articles of Association, empowered to act, and that any judgment rendered against such Chairman acting as aforesaid, shall be deemed to be a judgment binding against the members of the said Company, and upon which execution may issue against all or any of the members of the said Company, as upon a judgment against him or them in his or their private capacity.

Honorable Adam Ferrie, Chairman of one of the committees of the Company, and his successors in office authorised to sue and be sued on behalf of the Company, and judgments against him or them to be binding on the Company.

II. And be it enacted, that this Act shall be deemed a Public Act, and as such shall be judicially noticed by all Judges and Justices of the Peace, and all other persons whomsoever, without being specially pleaded.

This Act to be a Public Act, and to be noticed accordingly.

C A P . L X .

An Act to amend the Charter of the Cataraqui Bridge Company.

[9th December, 1843.]

WHEREAS a certain Act was passed by the Legislature of the late Province of Upper Canada, in the eighth year of the Reign of His late Majesty, King George the Fourth, and intituled, *An Act to incorporate certain persons therein mentioned, under the style and title of The Cataraqui Bridge Company*; And whereas the said Act of Incorporation is in several respects incomplete, and the said Bridge being nearly worn out, and a new one about to be erected, it is expedient to alter and amend certain Sections of the said Act; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the Toll-keeper, or the person appointed to receive the Tolls at the said Cataraqui Bridge, shall hereafter open the Draw-bridge, which, by

Preamble.

U. C. 89, 4 c. 12, cited.

Toll Keeper at the Bridge bound to open the Draw-Bridge.

by the third section of the said Act, the said Company are bound to construct for all vessels demanding passage through the same, and for every neglect or refusal, the said Toll-keeper or person appointed to receive the Tolls, shall forfeit and pay to the party so detained, the sum of twenty five shillings, currency.

Notices calling General Meetings of the Company, how to be advertised.

II. And be it enacted, that so much of the tenth section of the said Act, as requires that notices for annual meetings be advertised in all the several newspapers in the Town of Kingston, shall be and is hereby repealed, and that henceforward notice in the Canada Gazette, or one other newspaper of the said town, shall be sufficient for calling any public meeting of the said Cataraqui Bridge Company.

Under what authority offenders against the said Act shall be prosecuted.

III. And be it enacted, that so much of the twenty-fourth section of the said Act, as relates to the levying of fines for offences against the said Act, and refers the Magistrate in such cases for authority to the fifth section thereof, shall be and is hereby repealed; and that henceforward, the provisions set forth in the sixth section of the said Act, shall be the authority under which the Magistrate shall act in all manner of things relating to such offences.

C A P. LXI.

An Act to alter and amend the Act of Incorporation of the Kingston Marine Railway Company.

[9th December, 1843.]

Preamble.

WHEREAS the Kingston Marine Railway Company have, by their Petition, prayed for certain amendments in the Act of the Legislature of the Province of Upper Canada incorporating them hereinafter mentioned, and whereas it is expedient to grant the same; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the Corporation known by the name of the Kingston Marine Railway Company, established by an Act of the late Province of Upper Canada, passed in the first year of Her Majesty's Reign, and intituled, *An Act to incorporate sundry persons under the name of The Kingston Marine Railway Company*, are hereby authorized and empowered, and shall be by law capable of purchasing, having and holding to them and their successors,

The Kingston Marine Railway empowered to take, hold and depart with Real Estate, to a limited amount in yearly value.

cessors, any estate, real personal or mixed, to and for the use of the said Company, and of letting, conveying, and otherwise departing with, for the benefit and account of the said Company, the said real, personal or mixed estate, or such part thereof as may not be required for the purposes of the said Company, from time to time, as they shall deem necessary and expedient : Provided always, that all such real estate or property to be at any time held by the said Company, shall not exceed in its yearly value the sum of five thousand pounds, currency.

II. And be it enacted, that all purchases and grants of real estate heretofore made to and by the said Company, and all deeds, conveyances, leases, agreements and contracts heretofore made, executed or entered into by the said Company, are hereby declared to be as good and valid in the law to all intents and purposes whatsoever, as if the powers and authorities conferred by this Act had been conferred by the Act above mentioned, and as if the said deeds, conveyances, leases, agreements or contracts had been made by, with or in the name of the said Corporation.

Deeds, &c.
made to or by
the said Com-
pany confirm-
ed.

III. And be it enacted, that it shall and may be lawful for the said Company, and they are hereby empowered to erect and build in and upon any of the lands now owned by the said Company, or any which they may hereafter acquire for the purposes of this or the above recited Act, any wharves, piers, store-houses, dwellings and buildings which may from time to time be found necessary and expedient for the improvement of the property of the said Company, and for carrying on the business thereof.

The Compa-
ny empowered
to erect build-
ings on the said
property.

IV. And be it enacted, that it shall and may be lawful for the said Company, and they are hereby authorized to make, construct, erect and build all and all manner of Vessels, Steamboats, Barges, and other craft, and the engines, rigging and appurtenances thereto belonging, and to carry on the business of Ship-building and repairing in all its branches, and to enter into contracts and agreements with any person or persons for and in respect of any matter or thing relating to the same : Provided always, that nothing in the said hereinbefore mentioned Act, or in this Act contained, shall be held to authorize or warrant the said Corporation to act as bankers, or to issue or keep in circulation notes in the nature of bank notes, or to make such notes valid in law, if issued by or in the name of the said Corporation.

The Compa-
ny authorized
to carry on bu-
siness as Ship-
builders and
Engineers.

But not to
possess bank-
ing privileges.

C A P. LXII.

An Act to authorize the several Banks therein mentioned to open Books for the transfer of a certain portion of their Stock, in the City of London.

[9th December, 1843.]

Preamble.

WHEREAS it is desirable that the President, Directors and Company of the Commercial Bank of the Midland District, the Bank of Upper Canada and the President, Directors and Company of the Bank of the Niagara District, should be respectively authorized to set apart a certain portion of their Capital Stock now unsubscribed for, to be transferable in the City of London, in that part of the United Kingdom of Great Britain and Ireland called England, and should be enabled to open offices in the said City of London, in which the holders of the Stock of the said Institutions should be authorized and empowered to transfer any share or shares thereof; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that it shall be lawful for the President, Directors and Company of the Commercial Bank of the Midland District, and for the Bank of Upper Canada, by any By-law of the said Corporations, respectively, to be passed for that purpose, to set apart an amount not exceeding one hundred and fifty thousand pounds of the Capital Stock of each of the said Banks, now unsubscribed for, to be known and distinguished as the "English Stock" of the said Banks, respectively; and for the President, Directors and Company of the Bank of the Niagara District, by any By-law of that Corporation, to be passed for that purpose, to set apart an amount not exceeding fifty thousand pounds of the Capital Stock thereof, to be known and distinguished as the "English Stock" of the said Bank,—and that the shares of the Capital Stock of the said Banks, respectively, so set apart as English Stock shall be assignable and transferable, according to the form of Schedule A., annexed to this Act, in the City of London, only, under such rules and regulations as the Directors, or a majority of the Directors of each of the said Banks, respectively, may deem advisable for that purpose: Provided always, that no such assignment or transfer, shall be valid and effectual, unless made and registered in a Book or Books to be kept for that purpose in the respective offices of such Banks in the said City of London, but being so made and registered, it shall be valid and binding,

Certain part of the Capital Stock of certain Chartered Banks to be set aside as English Stock, and to be transferable in London.

Proviso.

binding, even though the party transferring be at the time of the transfer a debtor of the Bank, of the shares or stock of which any such transfer shall be made: Provided always that it shall be lawful for the Directors of the said Banks, respectively, to make the Instalments of and the Dividends, upon such English Stock, payable in the City of London, and also to accept for any shares in such stock an equal number of shares of the old stock of the same Bank, and to hold and dispose of the shares so received in exchange, any thing in the Acts herein-after mentioned to the contrary notwithstanding.

Dividends
may be made
payable in
London.

II. And be it enacted, that so much of the Act passed in the session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to incorporate sundry persons under the style and title of the President, Directors and Company of the Bank of the Niagara District*, or of the Act passed in the sixth year of Her Majesty's Reign, and intituled, *An Act to extend the Charter of the Commercial Bank of the Midland District, and to increase its Capital Stock*, or of an Act passed in the sixth year of Her Majesty's Reign, intituled, *An Act to extend the Charter of the Bank of Upper Canada, and to increase the Capital Stock thereof*, or of any other Act or Law, as may be inconsistent with or repugnant to the provisions of this Act, shall be and is hereby repealed.

Provisions
in existing
charters of
such Banks
repugnant to
this Act, re-
pealed.

SCHEDULE A.

For value received from _____ of _____ I, [or we,] _____ of _____ do hereby assign and transfer unto the said _____, _____ shares, (on each of which has been paid the sum of _____ pounds, _____ shillings, current money of the Province of Canada, amounting to the sum of _____ pounds, shillings, like currency,) in the capital stock of [name of the Bank], in the said Province, subject to the Rules and Regulations of the said Bank.

Witness my [or our] hand [or hands] at the Office of the said Bank, established for the transfer of shares of the Capital Stock thereof, in the City of London, this _____ day of _____ in the year one thousand, eight hundred and _____

[SIGNATURE.]

I [or we] do hereby accept the foregoing assignment of _____ shares of the Capital Stock of the [name of the Bank,] assigned to me [or us,] as above mentioned, at the Office aforesaid of the said Bank, this _____ day of _____ one thousand, eight hundred and _____

[SIGNATURE.]

CAP. LXIII.

An Act for Incorporating and Granting certain Powers to the Upper Canada Trust and Loan Company.

[9th December, 1843.]

Preamble.

WHEREAS the improvement and advancement of this Province are greatly retarded by reason of the deficiency of Capital which prevails therein ; And whereas the difficulty of ascertaining, with confidence, the money, value and legal sufficiency of the security offered by borrowers, has hitherto, to a great extent, precluded Capitalists resident in Great Britain from availing themselves of the opportunities constantly offered in Canada for the profitable investment of Capital ; And whereas such difficulty would, to a great extent, be overcome by the establishment of an Incorporated Joint Stock Company, possessing powers to borrow money on the security of their subscribed Capital, and to advance and lend the same, together with such portions of their subscribed Capital as may be paid up, on securities, real or personal, in this Province, and the several persons hereinafter named are, consequently, desirous of forming such Joint Stock Company, and it is expedient to unite the said persons into a Joint Stock Company, and to invest them with the powers, privileges, authorities and immunities necessary for the accomplishment of their undertaking ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that John Counter, Robert Short Atcheson, John A. Macdonald, Thomas Kirkpatrick, Charles Stuart, John Watkins, and all and every such other person and persons, Body and Bodies Politic, Corporate or Collegiate, and their respective successors, executors, administrators and assigns, or such of them as shall, from time to time, be possessed of any share or shares in the undertaking, hereby authorized to be carried on, shall be united into a Company, according to the powers and authorities, rules, orders and regulations hereinafter set forth or referred to, and shall be one Body Politic and Corporate, by the name of "The Trust and Loan Company of Upper Canada," and by that name shall have perpetual succession and a Common Seal, with power to break and alter such Seal, and by that name shall sue and be sued, plead and be impleaded, in all Courts, whether of Law or Equity whatsoever.

Proprietors
incorporated.

II. And be it enacted, that the said Company shall be and they are hereby authorized and empowered to lay out and invest their Capital in the first place, in paying and discharging all costs, charges and expenses incurred in applying for and obtaining this Act, and all other expenses preparatory or relating thereto, and the remainder of such Capital, or so much thereof, as may, from time to time, be deemed necessary, in the manner and for the purposes hereinafter mentioned, that is to say, that it shall be lawful for the said Company, from time to time, and at any time or times, to lend and advance money by way of loan or otherwise, on such security, real or personal, or both real and personal, and upon such terms and conditions, and at such rate of interest not exceeding six per centum, per annum, as to the said Company shall seem satisfactory or expedient, and to do all acts that may be necessary for the advancing such sums of money, and for recovering and obtaining re-payment thereof, and for compelling the payment of all interest (if any) accruing from such sums so advanced, or the observance and fulfilment of any conditions annexed to such advances, or any forfeitures consequent on the non-payment thereof, and to give receipts and acquittances and discharges for the same, either absolutely and wholly or partially, and for all and every and any of the foregoing purposes, to lay out and apply the Capital and property, for the time being, of the Company, or any part thereof, or any of the monies authorized to be hereafter raised by the Company, in addition to their Capital for the time being, and to do, authorize and exercise all acts and powers whatsoever, in the opinion of the Directors of the said Company for the time being, requisite or expedient to be done or exercised in relation thereto.

Powers of
the Company.

Power to the
Company to
lend money on
real and per-
sonal security.

III. And be it enacted, that it shall be lawful for the said Company, and the said Company are hereby empowered to lend and advance money to the Government of the said Province for any purpose whatsoever, or to any District Council in the said Province, or to any Board, Trustees, Commissioners, or other persons or person, having the care of, or making, or executing any public works in the said Province, and at such rate of interest not exceeding six per centum, per annum, as may be agreed upon in any such case, and to take and accept from such Government, District Council, or any such Board, Trustees, Commissioners, or other persons or person, such assignment, grant, demise, or security of or upon any public revenues or property of the said Province, or upon any rates, tolls, charges, or assessments within the said Province, or such other security for the repayment of the money so to be advanced, and also for the interest thereof as to the said Company shall appear satisfactory, and which shall be good, valid, and effectual for the purposes expressed therein, and shall and may be enforced for the benefit of the said Company, and to do all acts that may be necessary for the advancing such sums of money and recovering and obtaining repayment thereof, and for enforcing the payment of all interest (if any) accruing therefrom, or any conditions annexed

Power to the
Company to
lend money to
the Govern-
ment of the
Province, or
any District
Council, or
Board or Pub-
lic Fund.

annexed to such advances, or any forfeitures consequent on the non-payment thereof, or any parts thereof, respectively, and to give receipts, acquittances and discharges for the same either absolutely, wholly or partially, and for all and every or any of the foregoing purposes, to lay out and employ the Capital and property for the time being, of the said Company, or any part of the monies authorized to be hereafter raised by the Company in addition to their Capital for the time being, and to do, assent to, and exercise all acts whatsoever in the opinion of the Directors of the said Company, for the time being, requisite or expedient to be done in regard thereto.

Power to acquire lands by mortgage, purchase, or otherwise.

IV. And be it enacted, that it shall be lawful for the Company, and they are hereby empowered to acquire by purchase, mortgage, or otherwise, and to hold either absolutely or conditionally, any property, lands and hereditaments in the said Province, and to lay out and apply the Capital and other property for the time being of the Company, or any monies raised by the Company, in acquiring by purchase, or mortgage, or otherwise, such property, lands and hereditaments in the said Province.

Power to lease and sell lands.

V. And be it enacted, that it shall be lawful for the Company, from time to time, to deal with and dispose of all lands acquired and possessed or held in Trust for the Company, or contracted for, or to which the said Company shall be entitled, or of any part thereof, by such mortgage, lease, or other disposition thereof, which they may deem most conducive to the promoting the objects and advantage of the Company, and the Company shall be and they are hereby authorized and empowered to lay out and invest their capital and property for the time being, or any monies to be raised by them in so dealing and disposing of their lands.

Further powers may be given to the Company by the Imperial Parliament.

VI. And be it enacted, that it shall be lawful for the said Company to be invested with and exercise any further powers which the Parliament of the United Kingdom of Great Britain and Ireland shall from time to time by any Act or Acts to be at any time passed, thereby give to the said Company, and to do all acts necessary for the exercise of such powers, in the same manner and to the same extent as if the said further powers were expressly given, and the said acts expressly authorized by the present Act; and in such case, it shall be lawful for the said Company, in furtherance and execution of the powers so given to it, and in doing the acts so authorized, to apply and deal with the property and capital for the time being of the said Company, and the monies hereafter authorised to be raised by the said Company in the same manner and to the same extent as if such dealings, with and application of such property, capital and monies had been expressly authorized among the purposes for which the said Company was incorporated; and the said Company shall be bound and required to do all such acts, and to

to exercise all such further powers as may at any time be authorized or given to it by such authority as aforesaid, in such manner and subject to all such limitations, conditions and provisions as may be prescribed and provided by any Act of the said Parliament, whereby such powers shall be given or such acts authorized; and such limitations, conditions and provisions shall have effect in the same manner and to the same extent as if prescribed and provided by the present or any other Act of the Legislature of this Province; and in case the Imperial Parliament shall at any time repeal the whole or any part of such Act or Acts giving further powers, the said powers shall cease in the same manner, and to the same extent, as if such Act or Acts had been repealed by an Act of the Legislature of this Province.

VII. And be it enacted, that all conveyances to be made by the Company, under or by virtue of, or in pursuance of the several powers and authorities given to it by this Act, may be made according to the form in the Schedule (A.) to this Act annexed, or as near thereto as the circumstances will admit.

Form of conveyance.

VIII. And be it enacted, that in any such conveyance of lands to be made by the Company, the word "Grant" shall operate as express covenants by the Company for themselves and their successors, with the respective grantees therein named, and the successors, heirs, executors, administrators and assigns of such grantees, according to the quality or nature of such grants, and of the estate or interest therein expressed, to be thereby conveyed as follows, except so far as the same shall be restrained or limited by express words contained in any such conveyance; (that is to say:) A Covenant, that notwithstanding any act or default done by the Company, they were at the time of the execution of such conveyance seized, or possessed of the lands or premises thereby granted for an indefeasible estate of inheritance, in fee simple free from all incumbrances, done or occasioned by them or otherwise, for such estate or interest as therein expressed, to be thereby granted free from incumbrances done or occasioned by them: A Covenant, that the grantee of such lands, his heirs, successors, executors, administrators and assigns (as the case may be) shall quietly enjoy the same against the Company and their successors, and all other persons claiming under them, and be indemnified and saved harmless by the Company and their successors from all incumbrances created by the Company: A Covenant for further assurance of such lands at the expense of such grantee, his heirs, successors, executors, administrators, or assigns, (as the case may be) by the Company or their successors, and all other persons claiming under them, and all such grantees, and their several successors, heirs, executors, administrators and assigns, respectively, according to their respective quality or nature, and the estate or interest in such conveyance expressed to be conveyed, may in all actions brought by them assign breaches of covenants as they might do if such covenant were expressly inserted in such conveyance.

Effect of the word "Grant" in conveyance.

IX.

Form of mortgage and bond.

IX. And it is enacted, that every Mortgage and Bond for securing money borrowed from the Company, shall be by deed under seal wherein the consideration shall be duly stated, and every such Mortgage or Bond may be according to the form in the Schedule (B.) to this Act annexed, or as near as the circumstances will admit.

Company to demand and receive half yearly interest in advance.

X. And be it enacted, that the said Company may and are hereby empowered to demand and receive in advance from any person or persons, or from the Government of this Province, or from any District Council, Board, Trustee or Commissioners, or other person or persons, the half yearly interest from time to time accruing on any loans granted by the said Company, under and by virtue of the powers given them by this Act, any Law or Statute of this Province, or of the late Province of Upper Canada, notwithstanding.

Capital and number of shares.

XI. And be it enacted, that the capital of the said Company shall be five hundred thousand pounds, and shall be divided into twenty-five thousand shares, each of the amount of twenty pounds; and such shares shall be numbered in arithmetical progression, beginning with number One, and be respectively distinguished by the numbers affixed to them.

Shares to be personal estate.

XII. And be it enacted, that all shares in the undertaking shall be personal estate, and transmissible as such, and shall not be of the nature of real estate.

Registry of shareholders.

XIII. And be it enacted, that the Company shall keep a book, to be called "The Register Book of Shareholders;" and in such book shall be fairly and distinctly entered, from time to time, the names of the several Corporations, and the names and additions of the several persons, being Shareholders of the Company, the number of shares to which such Shareholders shall be respectively entitled, distinguishing each share by its number, and the amount of the subscriptions paid on such shares; and such book shall be authenticated by the Common Seal of the Company being affixed thereto.

Addresses of shareholders.

XIV. And be it enacted, that in addition to the said register of shareholders, the Company shall provide a proper book to be called "The Shareholders' Address Book," in which the Secretary shall, from time to time, enter the places of abode of the several Shareholders of the Company; and every Shareholder, or if such Shareholder be a Corporation, the Clerk or Agent of such Corporation, may at all convenient times peruse such book gratis, and may require a copy thereof, or of any part thereof; and for every hundred words so required to be copied, the Secretary may demand a sum not exceeding six pence.

XV.

- XV. And be it enacted, that on demand of the holder of any share, the Company shall cause a certificate of the proprietorship of such share to be delivered to such Shareholder, and such certificate shall have the Common Seal of the Company affixed thereto; and such certificate shall specify the share or number of shares in the undertaking to which such Shareholder is entitled, and the same may be according to the form in the Schedule C, to this Act annexed, or to the like effect; and for such certificate the Secretary may demand any sum not exceeding two shillings and six pence.

Certificates
of shares.

- XVI. And be it enacted, that such certificate shall be admitted in all Courts as *primâ facie* evidence of the title of such Shareholder, his executors, administrators, successors or assigns, to the share therein specified; nevertheless the want of such certificate shall not prevent the holder of any share from disposing thereof.

Certificate to
be evidence.

XVII. And be it enacted, that if any such certificate be worn out or damaged, then, upon the same being produced at some meeting of the Directors, such Directors may order the same to be cancelled, and thereupon another similar certificate shall be given to the party in whom the property of such certificate, and of the share therein mentioned, shall be at the time vested; or if such certificate be lost or destroyed, then, upon proof thereof, a similar certificate shall be given to the party entitled to the certificate so lost or destroyed; and in either case a due entry of the substituted certificate shall be made by the Secretary in the Register of Shareholders; and for every certificate so given or exchanged, the Secretary may demand any sum not exceeding two shillings and six pence.

Certificate to
be renewed
when destroy-
ed.

XVIII. And be it enacted, that, subject to the regulations herein contained, every Shareholder may sell and transfer his shares, or any of them, by deed, in which the consideration shall be truly stated, and such deed may be according to the form in Schedule D. to this Act annexed, or to the like effect; and the same (when duly executed) shall be delivered to the Secretary, and be kept by him, and the Secretary shall enter a memorial thereof in a Book, to be called "The Register of Transfers," and shall endorse such entry on the deed of transfer; and for every such entry and endorsement the Secretary may demand any sum not exceeding five shillings, and on the request and at the option of the purchaser of any share, a new certificate shall be granted in the manner aforementioned, and an endorsement of such transfer shall be made on the certificate of such share and new certificate, and for such endorsement the Secretary may demand any sum not exceeding five shillings, and such endorsement, being signed by the Secretary, shall be considered, in every respect, the same as a new certificate; and until such transfer shall have been so delivered to the Secretary as aforesaid, the seller of such share shall remain liable for all future calls, and the purchaser of the share shall

Transfer of
shares to be re-
gistered.

shall not be entitled to receive any share of the profits of the said undertaking, or to vote in respect of such share.

Transfer not
to be made un-
til calls paid.

XIX. And be it enacted, that no Shareholder shall be entitled to transfer any share until he shall have paid all calls, for the time being, due on every share held by him.

Transmission
of shares by
other means
than transfer
to be authenti-
cated by a de-
claration.

XX. And with respect to the registration of shares, the interest in which may become transmitted in consequence of the death, or bankruptcy, or insolvency of any Shareholder, or in consequence of the marriage of a female Shareholder, or by any other legal means than by a transfer, according to the provisions of this Act; Be it enacted, that no person claiming by virtue of any such transmission, shall be entitled to receive any share of the profits of the said undertaking, nor to vote in respect of any such share as the holder thereof, until such transmission has been authenticated by a declaration in writing as hereinafter mentioned, or in such other manner as the Directors shall require; and every such declaration shall state the manner in which, and the party to whom, such share shall have been so transmitted, and shall be made and signed by some credible person before a Justice, or before a Master or Master Extraordinary in the Court of Chancery, and such declaration shall be left with the Secretary, and thereupon he shall enter the name of the person entitled under such transmission in the Register Book of Shareholders of the Company, whereby such person shall be and become a Shareholder in the said undertaking; and for every such entry, the Secretary may demand any sum not exceeding five shillings.

Proof of trans-
mission by
marriage, will,
&c.

XXI. And be it enacted, that if such transmission be by virtue of the marriage of a female Shareholder, the said declaration shall contain a copy of the register of such marriage, and shall declare the identity of the wife with the holder of such share; and if such transmission have taken place by virtue of any testamentary instrument, or by intestacy, the probate of the Will, or letters of administration, or an official extract therefrom, shall, together with such declaration, be produced to the Secretary; and upon such production in either of the cases aforesaid, the Secretary shall make an entry of the declaration in the said Register of Transfers.

Notices to
joint proprie-
tors of shares.

XXII. And be it enacted, that with respect to any share to which several persons may be jointly entitled, all notices directed to be given to the Shareholders shall be given to such of the said persons whose name shall stand first in the Register of Shareholders, and notice so given shall be sufficient notice to all the Proprietors of such share, unless any such joint proprietor shall, by writing under his hand, request such notice to be given to any other or all such joint proprietors.

XXIII.

XXIII. And be it enacted, that if any money be payable to any shareholder, being a minor, idiot, or lunatic, the receipt of the guardian of such minor, or the receipt of the Committee of such idiot or lunatic, shall be a sufficient discharge to the Company for the same.

Receipts for
money payable
to minors, &c.

XXIV. And be it enacted, that the Company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any of the said shares may be subject, and the receipt of the party in whose name any such share shall stand in the books of the Company, shall from time to time be a sufficient discharge to the Company for any dividend or other sum of money payable in respect of such share; notwithstanding any trusts to which such share may then be subject, and whether or not the Company have had notice of such trusts; and the Company shall not be bound to see to the application of the money paid upon such receipt.

Company not
bound to re-
gard trusts.

XXV. And be it enacted, that from time to time the Company may make such calls of money upon the respective Shareholders in respect of the amount of Capital, respectively, subscribed or owing by them, as they shall think fit, provided that thirty-one days' notice at the least, be given of each call, and that no call exceed the amount of Two Pounds per share, and that successive calls be not made at less than the interval of Three Months, and that the aggregate amount of calls made in any one year do not exceed the amount of Eight Pounds per share, and every Shareholder shall be liable to pay the amount of the calls so made in respect of the shares held by him, to the persons and at the times and places from time to time appointed by the Company.

Power to
make calls.

XXVI. And be it enacted, that if before or on the day appointed for payment, any Shareholder do not pay the amount of any call to which he may be liable, then such Shareholder shall be liable to pay interest on the same, at the rate of Five Pounds per centum, per annum, from the day appointed for the payment thereof to the time of the actual payment.

Interest on
calls unpaid.

XXVII. And be it enacted, that the Company may, if they think fit, receive from any of the Shareholders willing to advance the same, all or any part of the monies due upon their respective shares beyond the sums actually called for; and upon the principal monies so paid in advance, or so much thereof as from time to time, shall exceed the amount of the calls made upon the shares in respect of which such advance, shall have been made, the Company may pay interest at such rate, not exceeding Five Pounds per centum, per annum, as the Shareholder paying such sum in advance and the Company shall agree upon.

Payment of
subscription
before call.

XXVIII.

Enforcement
of calls by ac-
tion.

XXVIII. And be it enacted, that if at the time appointed by the Company for the payment of any call, the holder of any share fail to pay the amount of such call, the Company may sue such Shareholder for the amount thereof in any court of law or equity having competent jurisdiction, and may recover the same with interest, at the rate of Five Pounds per centum, per annum, from the day on which such call may have been made payable.

Declaration
in action for
calls.

XXIX. And be it enacted, that in any action to be brought by the Company against any Shareholder, to recover any money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the Company to declare that the defendant is a holder of One share or more in the Company (stating the number of shares), and is indebted to the Company in the sum of money to which the calls in arrear shall amount in respect of one call or more upon one share or more (stating the number and the amount of each of such calls), whereby an action hath accrued to the Company by virtue of this Act.

Matter to be
proved in ac-
tion for calls.

XXX. And be it enacted, that on the trial of such action, it shall be sufficient to prove that the defendant, at the time of making such call, was a holder of one share or more in the Company, and that such call was in fact made, and such notice thereof given, as is directed by this Act; and it shall not be necessary to prove the appointment of the Directors who made such call, nor any other matter whatsoever; and thereupon the Company shall be entitled to recover what shall be due upon such call, with interest thereon, unless it shall appear either that any such call exceeds the amount of Two pounds per share, or that due notice of such call was not given, or that the interval of Three months between two successive calls had not elapsed, or that calls amounting to more than the sum of Eight Pounds in one year had been made.

Proof of pro-
prietorship.

XXXI. And be it enacted, that the production of the Register Book of Shareholders of the Company, shall be *prima facie* evidence of such defendant being a Shareholder, and of the number and amount of his shares, and of the sums paid in respect thereof.

Forfeiture of
shares for non-
payment of
calls.

XXXII. And be it enacted, that if the holder of any share fail to pay a call payable by him in respect thereof, together with the interest, if any, that shall have accrued thereon, the Directors, at any time after the expiration of one month from the day appointed for payment of such call, may declare such share forfeited, and that whether the Company have sued for the amount of such call or not.

Notice of for-
feiture to be

XXXIII. And be it enacted, that before declaring any share forfeited, the Directors shall cause notice of such intention to be left at the usual or last known place

place of abode of the person appearing by the Register Book of Proprietors to be the proprietor of such share; and if the proprietor of any such share be abroad, or if the interest in any such share shall be known by the Directors to have become transmitted otherwise than by transfer, as hereinbefore mentioned, but a declaration of such transmission shall not have been registered as aforesaid, and so the address of the parties to whom the same may have been transmitted shall not be known to the Directors, the Directors shall give public notice of such intention in the London Gazette, and also by advertisement in a newspaper as hereinafter provided, and the several notices aforesaid shall be given twenty-one days at least before the Directors shall make such declaration of forfeiture.

given before
declaration
thereof.

XXXIV. And be it enacted, that such declaration of forfeiture shall not take effect so as to authorize the sale, or other disposition of any share, until such declaration have been confirmed at some general meeting of the Company, to be held after the expiration of two months at the least from the day on which such notice of intention to make such declaration of forfeiture shall have been given, and it shall be lawful for the Company to confirm such forfeiture at any such meeting, and by an order at such meeting, or at any subsequent general meeting, to direct the share so forfeited to be sold or otherwise disposed of; and after such confirmation the Directors may sell the forfeited shares, and either separately or together, or in lots, as to them shall seem fit.

Forfeiture
to be confirm-
ed by a gen-
eral meeting.

Sale of forfeit-
ed shares.

XXXV. And be it enacted, that a declaration in writing by an officer or servant of the Company, or by some credible person (not interested in the matter), made before any Justice, or before any Master or Master Extraordinary in the Court of Chancery, that the call in respect of a share was made, and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was declared and confirmed in manner hereinbefore required, shall be sufficient evidence of the facts therein stated; and such declaration, and the receipt of the Secretary of the Company for the price of such share, shall constitute a good title to such share, and thereupon such purchaser shall be deemed the proprietor of such share, discharged from all calls made prior to such purchase; and a certificate of proprietorship shall be delivered to such purchaser, upon his signing the undertaking to hold the said shares so purchased to him as aforesaid, subject to the Provisions of this Act, and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to any such sale.

Evidence as
to forfeiture of
shares.

XXXVI. And be it enacted, that the Company shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained

No more
shares to be
sold than suffi-
cient for pay-
ment of calls.

ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest, and the expenses attending such sale and declaration of forfeiture; and if the money produced by the sale of any such forfeited share be more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and sale thereof, the surplus shall, on demand, be paid to the defaulter, or in default thereof, applied in and towards satisfaction of any calls made thereafter, but prior to such demand being made as last aforesaid, in respect of the remaining unsold shares of such defaulter.

On payment of calls before sale forfeited shares to revert.

XXXVII. And be it enacted, that if payment of such arrears of call, and interest, and expenses, be made before any share so forfeited and vested in the Company shall have been sold, such share shall revert to the party to whom the same belonged before such forfeiture, in such manner as if such calls had been duly paid.

Extent of liability of shareholders.

XXXVIII. And be it enacted, that no Shareholder of the Company shall be liable for or charged with the payment of any debt or demand due from the Company, beyond the extent of his shares in the capital of the Company not then paid up.

Execution against shareholders to the extent of capital not paid up.

XXXIX. And be it enacted, that if any execution either at law or in equity, shall have been issued, taken out, or used against the lands, property, or effects of the Company, and if there cannot be found sufficient whereon to levy such execution, then such execution may be issued against any of the Shareholders of the Company, to the extent of their shares, respectively, in the capital of the Company not then paid up: Provided always, that no such execution shall issue against any Shareholder, except upon an order of the Court in which the action, suit, or other proceeding shall have been brought or instituted, made upon motion in open Court, after twenty days notice in writing to the persons sought to be charged; and upon such motion such Court may order execution to issue accordingly; and for the purpose of ascertaining the names of the Shareholders and the amount of capital remaining to be paid upon their respective shares, it shall be lawful for any person entitled to any such execution, at all reasonable times, to inspect the Register Book of Shareholders without fee.

Reimbursement.

XL. And be it enacted, that if, by means of any such execution, any Shareholder shall have paid any sum of money beyond the amount then due from him in respect of calls already made, and for interest thereon, if any, and all costs and expenses in respect thereof, he shall forthwith be reimbursed such additional sum by the Directors out of the funds of the Company.

XLI.

XXI. And be it enacted, that in case the money hereby authorized to be raised shall be found insufficient for the purposes of the Company, it shall be lawful for the Company to borrow on mortgage, or bond, such sums of money as shall from time to time be authorized to be borrowed by an order of a general meeting of the Company, not exceeding in the whole the sum of Five hundred thousand pounds, and for securing the repayment of the money so borrowed, with interest, to mortgage all or any of the lands and hereditaments of the Company, and the future calls on the Shareholders of the Company, and to give bonds or mortgages in manner hereinafter mentioned.

Power to borrow money.

XLII. And be it enacted, that if, after having borrowed any part of the money so authorized to be borrowed on mortgage or bond, the Company pay off the same, it shall be lawful for them again to borrow the amount so paid off, and so from time to time; but such power of re-borrowing shall not be exercised without the authority of a general meeting of the Company, unless the money be so re-borrowed in order to pay off any existing mortgage or bond.

Re-borrowing.

XLIII. And be it enacted, that every mortgage and bond for securing money borrowed by the Company, shall be by deed under the Common Seal of the Company wherein the consideration shall be truly stated; and every such mortgage, deed, or bond may be according to the form in the Schedule (E.) or (F.) to this Act annexed, or to the like effect.

Form of mortgages and bonds given by the Company.

XLIV. And be it enacted, that the respective mortgagees shall be entitled, one with another, to their respective proportions of the rents, lands and premises comprised in such mortgage, and of the future calls payable by the Shareholders of the Company, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees, respectively, and to be repaid the sums so advanced, with interest, without any preference one above another, or above the bond-creditors of the Company, by reason of priority of the date of any such mortgage, or of the meeting at which the same was authorized, or on any other account whatsoever.

Rights of Mortgagees.

XLV. And be it enacted, that the respective obligees in such bonds shall proportionally, according to the amount of the monies secured thereby, be entitled to be paid out of the property or effects of the Company, and of the future calls payable by the Shareholders of the Company, the respective sums in such bonds mentioned, and thereby intended to be secured, without any preference one above another, or above the mortgagees of the Company, by reason of priority of date of any such bond, or of the meeting at which the same was authorized, or otherwise howsoever.

Rights of Obligees.

XLVI.

Register of
Mortgages and
Bonds.

XLVI. And be it enacted, that a Register of mortgages and bonds shall be kept by the Secretary, and within fourteen days after the date of any such mortgage or bond, an entry or memorial, specifying the number and date of such mortgage or bond, and the names of the parties thereto, with their proper additions, shall be made in such register; and such register may be perused at all reasonable times by any of the Shareholders, or by any mortgagee or bond-creditor of the Undertaking, or by any person interested in any such mortgage or bond, without fee or reward.

Transfer of
mortgages and
Bonds. And
Form.

XLVII. And be it enacted, that, from time to time, any party entitled to any such mortgage or bond, may transfer his right and interest therein to any other person, by deed wherein the consideration shall be truly stated; and every such transfer may be according to the form in the Schedule (G.) to this Act annexed, or to the like effect.

Entry of trans-
fers of mortga-
ges and bonds.

XLVIII. And be it enacted, that within thirty days after the date of every such transfer, if executed within the United Kingdom, or otherwise within thirty days after the arrival thereof in the United Kingdom, it shall be produced to the Secretary, and thereupon the Secretary shall cause an entry or memorial thereof to be made, in the same manner as in the case of the original mortgage, and after such entry, every such transfer shall entitle the transferee, his executors, administrators or assigns, to the full benefit of the original mortgage or bond in all respects; and no party having made such transfer shall have power to make void, release or discharge the mortgage or bond so transferred, or any money thereby secured; and for such entry the Secretary may demand a sum not exceeding the amount of two shillings and six pence.

Payment of
interest on
loans.

XLIX. And be it enacted, that the interest of the money borrowed upon any such mortgage or bond shall be payable and paid half yearly to the several parties entitled thereto, and in preference to any dividends payable to the Shareholders of the Company.

Repayment of
money borrow-
ed at a time
fixed.

L. And be it enacted, that the Company may, if they think proper, fix a period for the re-payment of the principal money so borrowed, with the interest thereof, and in such case the Company shall cause such period to be inserted in the mortgage, deed or bond, and upon the expiration of such period the principal sum, together with the arrears of interest thereon, shall be paid to the party entitled to such mortgage or bond.

Re-payment of
money borrow-
ed where no
time is fixed.

LI. And be it enacted, that if no time be fixed in the mortgage, deed or bond for the repayment of the money as borrowed, the party entitled to the mortgage or bond

bond may, at the expiration, or at any time after the expiration of twelve months from the date of such mortgage or bond, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months previous notice for that purpose, and the Company may at all times pay off the money borrowed, or any part thereof, on giving the like notice; and such notice, if given by a mortgage or bond creditor, shall be by writing delivered to the Secretary, and if given by the Company, shall be by writing given either personally to such mortgagee or bond creditor, or if such mortgagee or bond creditor be unknown or cannot be found, such notice shall be given by advertisement in the London Gazette, and in some newspaper as after mentioned; and at the expiration of the said notice, when given by the Company, interest shall cease to be payable on the money secured by such mortgage or bond, unless on demand of such money the Company shall fail to pay the same pursuant to such notice.

LII. And in order to provide for the recovery of arrears of interest and costs, or the principal and interest and costs of any such mortgage or bond, at the respective times at which such interest, or such principal and interest and costs become due; Be it enacted, that if such interest, or any part thereof, shall, for thirty days after the same shall have become due, and demand thereof shall have been made in writing, remain unpaid, the mortgagee or bond creditor may either sue for the interest so in arrear, by action of debt in any of the Superior Courts, or he may require the appointment of a receiver, by an application to be made as hereinafter provided.

For enforcing
payment of in-
terest in arrear.

LIII. And with respect of such principal money, interest and costs; Be it enacted, that if such principal money and interest be not paid within six months after the same has become payable and after demand thereof in writing, the mortgagee or bond creditor may sue for the same in any of the Superior Courts of law or equity, or if his debt amount to the sum of five thousand pounds, he may alone, or if his debt does not amount to the sum of five thousand pounds, he may in conjunction with other mortgagees or bond creditors, whose debts being so in arrear after demand as aforesaid, shall, together with his, amount to the sum of ten thousand pounds, require the appointment of a Receiver by an application to be made as hereinafter provided.

For enforcing
the payment of
Principal and
interest.

LIV. And be it enacted, that every such application for a Receiver in the cases aforesaid shall, if made in this Province, be made to the Court of Chancery, or to any of the Courts of Queen's Bench, or to any Judge or Judges of the said Courts, or to any Judge of a District Court within his District, and on any such application so made, and after hearing the parties, it shall be lawful for such Judges or Courts by order in writing to appoint some person to receive the whole or a com-
petent

Appointment
of Receiver.

petent part of the sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the sums aforesaid, be fully paid; and upon such appointment being made, all such sums of money as aforesaid shall be paid to and received by the person so to be appointed; and the money so to be received shall be so much money received by or to the use of the party to whom such interest, or such principal and interest, or as the case may be, shall be then due, and on whose behalf such Receiver shall have been appointed; and after such interest and costs, or such principal, interest and costs have been so received, the power of such Receiver shall cease.

Mortgagees
not to vote.

LV. And be it enacted, that no party shall, in right of any mortgage, be deemed a Shareholder, or be capable of acting or voting as such at any meeting of the Company.

Access to ac-
count books by
Mortgagees.

LVI. And be it enacted, that at all reasonable times the books of account of the Company shall be open to the inspection of the respective mortgagees and bond-creditors thereof, with liberty to take extracts therefrom without fee or reward.

Power to en-
large capital.

LVII. And be it enacted, that it shall be lawful for the Company, with the consent of any extraordinary meeting of the Shareholders, specially convened for that purpose, from time to time to raise, by contribution amongst themselves, or by the admission of other persons as subscribers to the said undertaking, or in part by each of those means, a further sum or further sums of money, not exceeding in the whole the sum of one million pounds, in shares of twenty pounds each, in such manner and upon such terms and conditions, and under such regulations, as shall be approved and agreed upon at such meeting; and such shares shall be numbered in regular succession from and in continuation of the numbers affixed to the shares of the Company then already issued, in arithmetical progression, and every such share shall always be distinguished by the number to be appointed to the same.

Owners of new
shares to be en-
titled only to
dividend in re-
spect of the a-
mount paid up
on their shares
agreed upon at
the creation of
the new capi-
tal.

LVIII. And be it enacted, that the holders of the said new shares, so long as the deposits and calls made in respect thereof shall amount to less than the sums called for and payable in respect of the said original shares, shall only be entitled to such an amount of dividend in respect thereof, in case any dividend be then declared, and become payable under the provisions of this Act, as by the meeting of proprietors authorizing the creation of the new capital, in aid of which such new shares may have been issued, shall be declared and agreed upon.

LIX.

LIX. And be it enacted, that the capital so to be raised by the creation of new shares shall be considered as part of the general capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, and interest upon arrears thereof, or the forfeiture of shares on non-payment of calls or otherwise, as if it had been part of the original capital, except as to the time of making calls for such additional capital and the amount of such calls, which respectively it shall be lawful for the Company, from time to time, to fix as they shall think fit.

New capital to be considered as part of the original capital and the shares to be liable to the same provisions.

LX. And be it enacted, that if at the time of any such augmentation of capital taking place by the creation of new shares, the then existing shares of the capital stock of the Company be at a premium or of greater actual value than the nominal value thereof, then the sum so to be raised shall be divided into shares of such amounts as will conveniently allow the said sum to be apportioned among the then Shareholders, in proportion to the existing shares held by them, respectively; and such new shares shall be offered to the then Shareholders in the proportion of one for every existing share held by them, respectively; and such offer shall be made by letters, under the hand of the Secretary, given to or sent by Post to each Shareholder, or left at his usual or last place of abode; and such new shares shall vest in and belong to the Shareholders who shall accept the same and pay the value thereof to the Company at the time, and by the instalments which shall be fixed by the Company; and if any Shareholder fail, for one month after such offer of new shares, to accept the same and pay the instalment called for in respect thereof, it shall be lawful for the Company to dispose of such shares to any party willing to become the purchaser thereof, for such sum as the Company can obtain for the same, or in such other manner as may be deemed expedient.

If old shares at premium, new shares to be offered to original shareholders.

LXI. And be it enacted, that if at the time of such augmentation of capital taking place, the existing shares of the capital stock of the Company be not at a premium, then such new shares may be of such amount, and may be issued in such manner, as the Company shall think fit.

If not at a premium to be issued as Company think fit.

LXII. And be it enacted, that at all meetings of the Company, every Shareholder shall be entitled to vote according to the scale of voting hereinafter mentioned, that is to say: every shareholder possessing Five shares and not more than Nine shares, shall have One vote, and every Shareholder possessing more than nine shares, an additional vote for every Five of such shares beyond the number of such first Five shares, but no body or person shall have more than ten votes, and no Shareholder shall be entitled to vote at any meeting, unless he shall have paid all the calls then payable upon all the shares held by him.

Votes of shareholders at general meetings.

LXIII.

Manner of
voting.

LXIII. And be it enacted, that such votes may be given either personally or by proxies, the holders of such proxies being Shareholders, authorized by writing according to the form of the Schedule (H.) to this Act annexed, or in a form to the like effect, under the hand of the Shareholder, nominating such proxy, or if such Shareholder be a Corporation, then under their Common Seal; and every proposition at any such meeting shall be determined by show of hands, or upon demand of any proprietor after such show of hands, by the majority of the votes of the parties present, including proxies; the Chairman of the meeting being entitled to vote not only as a principal or proxy, but to have a casting vote if there be an equality of votes.

Regulation as
to proxies.

LXIV. And be it enacted, that no person shall be entitled to vote as a proxy, unless the instrument appointing such proxy have been transmitted to the Clerk or Secretary of the Company five clear days before the holding of the meeting at which such proxy is to be used, and that no person shall at any one meeting represent, as proxy, more than Thirty Shareholders; neither shall any person, not being a Shareholder qualified to vote, be entitled to speak at any meeting in right of any proxy which he may hold on behalf of any absent Shareholder.

Votes of joint
shareholders.

LXV. And be it enacted, that if several persons be jointly entitled to a share, the person whose name stands first on the Register of Shareholders as one of the holders of such share, shall, for the purpose of voting at any meeting, be deemed the sole proprietor thereof, and on all occasions the vote of such first named Shareholder, alone, either in person or by proxy, shall be allowed as the vote in respect of such share, and no proof of the concurrence of the other holders thereof shall be requisite.

Votes of lunatics and minors,

LXVI. And be it enacted, that if any Shareholder be a lunatic or idiot, such lunatic or idiot may vote by his committee, and if any Shareholder be a minor, he may vote by his guardians, or any one of his guardians, and every such vote may be given either in person or by proxy.

Appointment of Directors and other officers of the Company.

LXVII. And be it enacted, that such persons shall be the first Directors, Auditors and other Officers of the said Company, as shall be named in a Royal Charter of Incorporation, or in an Act of the Parliament of the United Kingdom of Great Britain and Ireland, for granting to the said Company the powers and authorities in Great Britain, necessary for carrying on and accomplishing the undertaking authorized by this Act, and that the election of future Directors and Officers, and also the times, place and mode of calling and holding General or Extraordinary, or other meetings of the said Company, and of the Directors and other Officers of the said Company, and the proceedings at such

Election of future Directors and other officers.

General

General or Extraordinary or other meetings of the said Company, and of the Directors of the said Company, shall (save and except so far as they are herein specially provided for) be subject to and regulated by such rules, regulations and provisions, and the said General or Extraordinary or other meetings of the said Company, and of the Directors and other Officers of the said Company shall have such powers, privileges and authorities as may be set forth and directed by such Royal Charter of Incorporation, or by such Act of the Imperial Parliament of Great Britain, as above mentioned: Provided that such powers, privileges, or authorities are not contrary to or inconsistent with the Provisions of this Act.

Meetings of the Company and of the Directors, and their powers.

To be regulated by Royal Charter or Act of the Imperial Parliament.

LXVIII. And with respect to the exercise of the powers of the Company; Be it enacted, that the Directors shall have the management and superintendence of the affairs of the Company, and they may lawfully exercise all the powers of the Company, except as to such matters as are directed by this Act to be transacted by a general meeting of the Company, and amongst other powers to be exercised by the Directors; they may use and affix, or cause to be used and affixed, the Seal of the Company to any Document or Paper which in their judgment may require the same; they may make and enforce the calls upon the shares of the respective Shareholders; they may declare the forfeiture of all shares on which such calls are not duly paid; they may make any payments, loans and advances on such securities as they may deem expedient, which are or shall at any time be authorized to be made by or on behalf of the Company, and enter into all contracts for the execution of the purposes of the Company, and for all other matters necessary for the transaction of its affairs; they may generally deal with, treat, sell and dispose of and exercise all other acts of ownership over the lands, property and effects of the Company for the time being, in such manner as they shall deem expedient and conducive to the benefit of the Company in such and the same manner as if the same lands, property and effects were held and owned according to the tenure, and subject to the liabilities, if any, from time to time affecting the same, not by a Body Corporate, but by any of Her Majesty's subjects being *sui juris*, or of full age; they may do and authorize, assent to or adopt all acts required for the due exercise of any further powers and authorities which may hereafter be at any time granted to the Company by the Parliament of the United Kingdom of Great Britain and Ireland, or by the Legislature of this Province, or for the performance and fulfilment of any conditions or provisions from time to time prescribed by the said Parliament of the United Kingdom of Great Britain and Ireland, or by the Legislature of this Province, in giving such further powers and authorities, or in altering or repealing the same, respectively, or any of them; but all the powers so to be exercised shall be exercised in accordance with, and subject to the provisions of this Act in that behalf, and the exercise of all such powers shall be subject also to the control and regulation of any

Powers of the Company to be exercised by the Directors.

any general meeting specially convened for that purpose, but not so as to render invalid any act done by the Directors prior to any resolution passed by such general meeting.

Powers of the Company not to be exercised by the Directors.

LXIX. And be it enacted, that the following powers of the Company, that is to say : the choice and removal of Directors, Auditors and Treasurer, unless in the event hereby specially authorised, the determination as to the remuneration of the Directors and of the Auditors, the determination as to the borrowing of money on mortgage, the determination as to the augmentation of Capital, and the declaration of Dividends, shall be exercised only at a General Meeting of the Company.

Proceedings to be entered in a book, and to be open for inspection.

LXX. And be it enacted, that the Directors shall cause notices, minutes or copies as the case may require, of all appointments made, or contracts entered into by the Directors, and Committees of Directors, to be duly entered in books to be from time to time provided for the purpose, which shall be kept under the superintendence of the Directors, and every such entry shall be signed by the Chairman of the meeting at which the matter in respect of which such entry is made was moved or dismissed, at or previously to the next meeting of the said Company, Directors, or Committee of Directors, as the case may be ; and such entry so signed shall be received as evidence in all Courts and before all Judges, Justices, and others, without proof of such respective meeting having been duly convened, or of the persons making or entering such orders or proceedings being Shareholders or Directors, or Members of the Committee, respectively, or by the signature of the Chairman, all of which last mentioned matters shall be presumed ; and all such books shall, at any reasonable times, be open to the inspection of any of the Shareholders.

Informalities in appointment of directors not to invalidate all proceedings

LXXI. And be it enacted, that all acts done by any meeting of the Directors, or of a Committee of Directors, or by any person acting as a Director, shall, notwithstanding it may be afterwards discovered that there was some defect or error in the appointment of any person attending such meeting as a Director, or acting as aforesaid, or that such person was disqualified, be as valid as if such person had been duly appointed and was qualified to be a Director.

Indemnity of Directors.

LXXII. And be it enacted, that no Director, by being a party to, or making, signing, or executing, in his capacity of Director, any contract or other instrument on behalf of the Company, or otherwise lawfully executing any of the powers given to the Directors, shall be subject to be sued or prosecuted, either collectively or individually, by any person whomsoever ; and the bodies or goods, or lands of the Directors, or any of them, shall not be liable to execution of any legal process by

by reason of any contract or other instrument so entered into, signed or executed by them or any of them, or by reason of any other lawful act done by them or any of them in the execution of any of their powers as Directors, and the Directors, their heirs, executors and administrators, shall be indemnified out of the Capital of the Company for all payments made or liabilities incurred in respect of any acts done by them, and for all losses, costs, and damages which they may incur in the execution of the powers granted to them; and the Directors for the time being of the Company shall apply the existing funds and capital of the Company for the purposes of such indemnity, and shall, if necessary for that purpose, make calls of the capital remaining unpaid.

LXXIII. And be it enacted, that every officer or person employed by the Company shall from time to time, when required by the Directors, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account, in writing under his hand, of all monies received by him on behalf of the Company; and such account shall state how, and to whom, and for what purpose such monies shall have been disposed of, and together with such account, such officer shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the Directors, or to any person appointed by them to receive the same, all monies which shall appear to be owing from him upon the balance of such accounts.

Officers to
account on de-
mand.

LXXIV. And be it enacted, that if any such officer fail to render such account, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if, for three days after being thereunto required, he fail to deliver up to the Directors, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things in his possession or power, relating to the execution of this Act, or belonging to the Company, then on complaint thereof being made to a Justice, such Justice shall, by Summons or Warrant under his hand, cause such officer to be brought before any two or more Justices, and upon such officer being so brought before him, or if such officer cannot be found, then in his absence such Justice may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appears either upon confession of such officer or upon evidence, or upon inspection of the account, that any monies of the Company are in the hands of such officer, or owing by him to the Company, such Justice may order such officer to pay the same; and if he fail to pay the amounts, it shall be lawful for such Justices to grant a Warrant to levy the same by distress, or in default thereof to commit the offender to gaol, there to remain without bail for a period not exceeding three months; and in any of the following cases, that is to say: if
any

Summary re-
medy against
officers failing
to account.

any such officer do not appear before the Justices at the time and place appointed for that purpose ; or if such officer appear, but fail to make out such account in writing ; or if such officer refuse to produce and deliver to the Justices the several vouchers and receipts relating to such account ; or if such officer refuse to deliver up any books, papers or writings, property, effects, matters or things in his possession or power, belonging to the Company, such Justices may lawfully commit such offender to Gaol ; and in every such case of commitment, the prisoner shall remain in custody without bail, until he have made out and delivered such accounts, and delivered up the vouchers and receipts, if any relating thereto, in his possession or power, and have delivered up such books, papers, writings, property, effects, matters and things, if any, in his possession or power.

Sureties not to be discharged.

LXXV. And be it enacted, that no such proceeding against, or dealing with any such officer as aforesaid, shall deprive the Company of any remedy which they might otherwise have against any surety of such officer.

Accounts to be kept.

LXXVI. And be it enacted, that full and true accounts shall be kept of all sums of money received or expended on account of the Company by the Directors, and all persons employed by or under them, and of the articles, matters and things for which such sums of money shall have been received or disbursed and paid.

Dividend not to reduce capital.

LXXVII. And be it enacted, that the Company shall not make any dividend whereby their capital stock will be in any degree reduced.

Funds for contingencies.

LXXVIII. And be it enacted, that before apportioning the profits aforesaid, the Directors may, if they think fit, set aside thereout such sum as they may think proper to meet contingencies, or for enlarging or improving the estates of the Company, or any part thereof, or promoting the objects and purposes for which they are incorporated, and may divide the balance only among the proprietors.

Dividend not to be in any share paid unless all calls paid.

LXXIX. And be it enacted, that no dividend shall be paid in respect of any share, until all calls then due, in respect of that, or of any other share held by the person to whom such dividend may be payable, shall have been paid.

Power to make bye-laws for the officers of the company.

LXXX. And with respect to the power of the Company to make By-laws ; Be it enacted, that it shall be lawful for the Company, from time to time, to make such By-laws as they may think fit for the purpose of regulating the conduct of the officers and servants of the Company, and for providing for the due management of the affairs of the Company in all respects whatsoever, and from time to time to alter or repeal any such By-laws and make others, provided such By-laws be not repugnant to the laws of that part of the United Kingdom, or of those of

Her

Her Majesty's Colonial possessions and their dependencies, where the same are to have effect, or to the provisions of this Act ; and such By-laws shall be reduced into writing, and shall have affixed thereto the Common Seal of the Company, and a copy of such By-laws shall be given to every officer and servant of the Company.

LXXXI. And be it enacted, that the Company may impose such reasonable fines and forfeitures upon all persons, being officers or servants of the Company, offending against such private By-laws, as the Company think fit, not exceeding five pounds for any one offence, and such fines and forfeitures may be recovered in the manner hereinafter provided.

Fines for
breach of such
by-laws.

LXXXII. And be it enacted, that the production of a written or printed copy of the By-laws of the Company, having the Common Seal of the Company affixed thereto, shall be sufficient evidence of such last mentioned By-laws in all cases of prosecution under the same.

Evidences of
by-laws.

LXXXIII. And for the purpose of providing for the recovery of penalties or forfeitures imposed by this Act, or by any By-laws made in pursuance thereto, for the recovery of which is not otherwise provided for ; Be it enacted, that every such penalty or forfeiture may be recovered by summary proceedings, upon complaint made before two or more Justices, and on the complaint being made to any such Justice, he shall issue a Summons requiring the party complained against to appear on a day and at a time and place to be named in such Summons ; and every such Summons shall be served on the party offending either in person, or by leaving the same with some inmate at his usual place of abode, and either upon the appearance, or upon the default to appear, of the party offending, it shall be lawful for any two or more Justices to proceed to the hearing of the complaint, and although no information in writing or in print shall have been exhibited before them, and upon proof of the offence, either by confession of the party complained against or upon the oath of one credible witness or more, it shall be lawful for any two or more Justices to commit the offender, and upon such conviction, to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction, as such Justices shall think fit.

Penalties to
be summarily
recovered be-
fore two Jus-
tices or more.

LXXXIV. And be it enacted, that if forthwith, upon any such adjudication as aforesaid, the amount of the penalty or forfeiture and of such costs as aforesaid, be not paid, the amount of such penalty and costs, together with the costs of the distress, shall be levied by distress, and any two Justices shall issue their warrant of distress accordingly.

Penalties to
be levied by
distress.

LXXXV.

Imprisonment
in default of
distress.

LXXXV. And be it enacted, that it shall be lawful for the Justices to order any offender so convicted as aforesaid, to be detained and kept in safe custody until return can be conveniently made to the Warrant of distress to be issued for levying such penalty or forfeiture and costs, unless the offender give sufficient security by way of recognizance or otherwise, to the satisfaction of the Justices, for his appearance before them on the day appointed for such return, such day not being more than eight days from the time of taking such security; but if before issuing such warrant of distress, it shall appear to the Justices, by the admission of the offender or otherwise, that no sufficient distress can be had whereon to levy such penalty, or forfeiture and costs, they may, if they think fit, refrain from issuing such Warrant of distress, and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Justices, then such Justices shall, by Warrant, cause such offender to be committed to gaol, there to remain without bail, for any term not exceeding three months, unless such penalty or forfeiture and costs be sooner paid and satisfied.

Application
of penalties.

LXXXVI. And with respect to the application of any penalties or forfeitures recovered by virtue of this act, the application whereof is not herein otherwise provided for; Be it enacted, that the Justices by whom any such penalty or forfeiture shall be imposed, shall award one half thereof to the informer and the other half to the Crown.

Penalties to
be sued for
within six
months.

LXXXVII. And be it enacted, that no person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this act, for any offence hereinbefore made cognizable before a Justice, unless the complaint, respecting such offence, shall have been made before such Justice within six months next after the commission of such offence.

Penalty on
witness ma-
king default.

LXXXVIII. And be it enacted, that it shall be lawful for any Justice to summon any person to appear before him as a witness in any matter in which such Justice shall have Jurisdiction under the provisions of this Act, at a time and place mentioned in such Summons, and to administer to him an oath to testify the truth in such matter, and if any person who shall be summoned as a witness before any Justice touching any offence committed against this Act, or any matter in which such Justice shall have jurisdiction by the provisions of this Act, shall without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath, or to give evidence before such Justice, every such person shall forfeit a sum not exceeding Five pounds for every such offence.

LXXXIX.

LXXXIX. And be it enacted, that the Justices before whom any person shall be convicted of any offence against this Act, may cause the conviction to be drawn up according to the form in the Schedule (I) to this Act annexed.

Form of conviction.

XC. And be it enacted, that where in this Act any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Duties how to be levied.

XCI. And be it enacted, that no distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the Summons, conviction, warrant of distress, or other proceedings relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Duties not unlawful for want of form.

XCII. And be it enacted, that if any person shall think himself aggrieved by any determination or adjudication of any Justice under the provisions of this Act, he may appeal to the General Quarter Sessions for the County in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within four months next after the making such determination or adjudication, and unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, and unless the appellant forthwith, after such notice, enter into recognizances, with two sufficient sureties, before a Justice conditioned duly to prosecute such appeal, and to abide the order of the Court thereon.

Parties may appeal to Quarter Sessions on giving security.

XCIII. And be it enacted, that at the Quarter Sessions for which such notice shall be given, the Court shall proceed to hear and determine the appeal in a summary way; or they may, if they think fit, adjourn it to the following Sessions; and upon the hearing of such appeal, the Court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him; and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs both of the adjudication and of the appeal as they may think reasonable.

If Court to make such order as they think reasonable.

Costs.

XCIV.

Services of
notices upon
company.

XCIV. And with respect to the service of notices, and demands to be made upon the Company; Be it enacted, that any summons, notice, demand, or writ, or other proceeding at law or in equity, requiring to be served or made upon the Company, may be served or made by the same, being given personally to the Agent or the Principal Officer of the Company resident in Canada, or being left at the office of the Company in Canada, or being delivered to some inmate at the place of abode of such Agent or other Principal Officer, or in case there be no such Agent or other Principal Officer resident in Canada, or the place of abode of the Agent or other Principal Officer shall not be found, then by being given to any one Shareholder of the said Company, or being delivered to some inmate of the place of abode of any such Shareholder.

Service by
company on
shareholders.

XCV. And with respect to any such notice required to be served by the Company upon the Shareholders; Be it enacted, that unless any such notice be expressly required to be served personally, it shall be sufficient to transmit the same by post, directed according to the registered address or other known address of the Shareholder, within such period as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the giving of such notice, and in proving such service, it shall be sufficient to prove that such notice was properly directed, and that it was so put into the Post Office.

Notice by ad-
vertisement.

XCVI. And be it enacted, that all notices required by this Act to be given by advertisement in a newspaper shall be signed by the Chairman of the meeting at which such notices shall be directed to be given, or by the Secretary or other Officer of the Company, and shall be advertised in two or more London and Canada newspapers, unless otherwise specially provided by this Act, and the same shall thereupon be deemed and considered the same as personal notices.

Authentica-
tion of notices.

XCVII. And be it enacted, that every summons, demand or notice, or other such document requiring authentication by the Company, may be signed by one Director, or by the Treasurer or the Secretary of the Company, and the same may be in writing or in print, or partly in writing and partly in print.

Release to
witnesses.

XCVIII. And be it enacted, that in all legal proceedings under this Act, general or other releases for the purpose of qualifying any person in the service of the Company to give evidence as a witness, may be granted by any two or more of the Directors; and every such release or discharge under the hands and seals of two of the Directors, shall be as effectual for the purpose aforesaid as if made under the Common Seal of the Company.

How debts
may be proved

XCIX. And be it enacted, that in case any Fiat in Bankruptcy shall be awarded against any person who shall be indebted to the Company, or against whom the
Company

Company shall have any claim or demand, it shall be lawful for any person who shall, from time to time, in that behalf, be appointed by writing, under the hands of any three or more of the Directors of the Company for the time being, to appear, and he is hereby authorized to appear and act on behalf of the Company in respect of any such claim, debt or demand before the Commissioners, under any such Fiat in Bankruptcy, either personally or by his affidavit sworn and exhibited in the usual manner, in order to prove and establish any such debt, claim or demand, under such Fiat; and such person to be so appointed shall, in all such cases, be admitted and allowed to make proof, or tender a claim under any such commission on behalf of the Company in respect of such debt, claim or demand, and shall have such and the same powers and privileges as to voting in the choice of assignees and signing certificates, and otherwise, in respect of any such debt admitted to be proved on behalf of the Company, as any other person being a creditor of such bankrupt, in his own right, would have in respect of the debt proved by him under such Fiat.

in cases of
bankruptcy.

C. And with respect to actions brought in respect of any proceeding under the provisions of this Act; Be it enacted, that if before action brought, any party having committed any irregularity, trespass, or other wrongful proceeding in the execution of this Act, or by virtue of any power or authority given, make tender of sufficient amends to the party injured, such party shall not recover any action brought on account of such irregularity, trespass, or other wrongful proceeding; and if no such tender shall have been made, it shall be lawful for the defendant, by leave of the Court where such action shall be pending, at any time before issue joined, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

Tender of
amends.

CI. And be it enacted, that in this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say: words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, words importing the masculine gender shall include females; the word "Month," shall mean Calendar Month; the expression "Superior Courts," shall mean Her Majesty's Supreme Courts of Record in the Province of Canada, or at Westminster or Dublin, as the case may require; the word "Oath," shall include affirmation in the case of Quakers, or other declaration or solemnity lawfully substituted for an oath, in the case of other persons exempted by law from the necessity of taking an oath; the word "Secretary," shall include the word "Clerk"; the word "Lands" shall extend to messuages, lands, tenements and hereditaments of any tenure; the

Interpreta-
tion clause.

Number.

Gender.

Month.

Supreme Court

Oath.

Secretary.

Lands.

Justice. the word "Justice," shall mean Justice of the Peace for the County, City, liberty or place in England or Canada, where the matter requiring the cognizance of any Justice shall arise, and who shall not be interested in the matter; and where the matter shall arise in respect of lands being the property of one and the same party situate not wholly in any one County, City, liberty or place where any part of such lands shall be situate, and who shall not be interested in such matter; the expression "The Company," shall mean the Upper Canada Trust and Loan Company, in this Act mentioned and described; the expression "The Directors" and "The Secretary," shall mean the Directors and the Secretary, respectively, for the time being, of such Company.

The Company.
Directors and Secretary.

Public Act. CII. And be it enacted, that this Act shall be a Public Act, and shall be judicially taken notice of as such.

CIII. And be it enacted, that this Act shall not be taken to extend or be in force in any part of that part of the Province of Canada heretofore Lower Canada.

SCHEDULES REFERRED TO BY THE FOREGOING ACT.

SCHEDULE A.

By virtue of an Act of the Legislature of Canada, passed in the year of the Reign of Queen Victoria, intituled, (*here set forth the title of this Act*) We, the Upper Canada Trust and Loan Company, in consideration of the sum of _____ to us paid by A. B. of _____ do hereby grant to the said A. B. his heirs and assigns, all (*describing the premises to be conveyed*) together with all ways, rights and appurtenances thereto belonging, and all such estate, right, title and interest in and to the same as we, the said Company, are or shall become possessed of, or are by the said Act empowered to convey. To hold the said premises to the said A. B. his heirs and assigns for ever. Given under the Council Seal, this _____ day of _____ in the year of Our Lord _____

SCHEDULE B.

FORM OF MORTGAGE DEED.

By virtue of an Act of the Legislature of Canada, passed in the year of the Reign of Queen Victoria, intituled, (*here insert the title of this Act*) I, _____ A.

A. B. of _____ in consideration of the sum of _____ paid to me by the Upper Canada Trust and Loan Company, do hereby, pursuant to the said Act, convey to the said Company, their successors and assigns, all (*describing the real or personal property to be conveyed*) and all such estate, right, title and interest in and to the same, as I am or shall become or are possessed of. To hold the same to the said Company, their successors and assigns for ever, subject to redemption on payment to the said Company, their successors or assigns the said sum of _____ on the _____ day of _____ eighteen hundred pounds, by the year, payable half yearly, on the _____ day of _____ with interest for the same, at the rate of _____ for every and _____ day of _____ in every year (*add any special powers which may be agreed on.*) In witness whereof, I have hereunto set my hand and seal, the _____ day of _____ in the year of Our Lord

FORM OF BOND.

By virtue of an Act of the Legislature of Canada, passed in the _____ year of the Reign of Queen Victoria, intituled, (*here insert the title of this Act,*) I, A. B., in consideration of the sum of _____ to me in hand paid by the Upper Canada Trust and Loan Company, am held and firmly bound to the said Upper Canada Trust and Loan Company, their successors and assigns, in the penal sum of _____ pounds, to be paid to the said Company, their successors or assigns.

The condition of the above obligation is such, that if the said A. B. his heirs, executors or administrators, shall pay to the said Company, their successors or assigns, on the _____ day of _____ which will be in the year _____ the principal sum of _____ together with interest for the same, at the rate of _____ per centum per annum, payable half yearly, on the _____ day of _____ and _____ day of _____ then the above written obligation is to become void, otherwise to remain in full force and virtue. In witness whereof, I have hereunto set my hand and seal, the _____ day of _____ in the year of Our Lord

 SCHEDULE C.

FORM OF CERTIFICATE OF SHARE.

Upper Canada Trust and Loan Company.

Number _____

These are to certify that A. B. is a proprietor of the share number _____ of the "Upper Canada Trust and Loan Company," subject to the rules, regulations

regulations and orders of the said Company, and that the said A. B. his executors, administrators, (*or* successors) and assigns, is and are entitled to the profits and advantages of such share.

Given under the Common Seal of the said Company, the
day of _____ in the year of Our Lord

SCHEDULE D.

FORM OF TRANSFER OF SHARES.

I, _____ of _____ in consideration of the sum of _____
paid to me by _____ of _____
do hereby assign and transfer to the said _____ share (*or* shares, *as the case may be*) numbered _____ of and in the undertaking called
"The Upper Canada Trust and Loan Company," to hold unto the said _____
his executors, administrators and assigns (*or* successors and assigns)
subject to the same conditions as I held the same immediately before the execution hereof; and I, the said _____ do hereby agree to accept and take
the said share (*or* shares) subject to the same conditions. As witness, our hands
and seals, the _____ day of _____

SCHEDULE E.

FORM OF MORTGAGE DEED.

Number _____

By virtue of an Act passed in a Session of Parliament held in the seventh year of the Reign of Queen Victoria, intituled, (*here set forth the title of the Act*) We, "The Upper Canada Trust and Loan Company," in consideration of the sum of _____ to us paid by A. B. of _____ do assign unto the said A. B. his executors, administrators and assigns, (*here describe the property profits, calls, capital or other security upon which the money shall have been agreed to be advanced*) and all estate, right, title, and interest of the said Association of, in and to the same, and power to make and enforce payment of all or any of the calls hereby assigned or intended so to be, to hold unto the said A. B. his executors, administrators and assigns until the said sum of _____ together with the _____
the _____

the interest for the same after the rate of _____ for every one hundred
pounds for a year, shall be fully paid and satisfied.

Given under our Common Seal, this _____ day of
in the year of Our Lord

SCHEDULE F.

FORM OF BOND.

“ The Upper Canada Trust and Loan Company.”

Bond Number

By virtue of an Act passed by the Legislature of Canada, in the seventh year of the Reign of Queen Victoria, intituled, (*here insert the title of this Act*) We, “ The Upper Canada Trust and Loan Company,” in consideration of the sum of _____ pounds, to us in hand paid by A. B. of _____ do bind ourselves, and our successors unto the said A. B. his executors, administrators and assigns, in the penal sum of _____ pounds.

The condition of this obligation is such, that if the said Company shall pay unto the said A. B. his executors, administrators or assigns, on the _____ day of _____ which will be in the year of Our Lord, one thousand eight hundred and _____ the principal sum of _____ pounds, together with interest for the same, at the rate of _____ pounds per centum per annum, payable half yearly, on the _____ day of _____ and the _____ day of _____ then the above written obligation is to become void, otherwise to remain in full force.

Given under our Common Seal, this _____ day of _____

SCHEDULE G.

FORM OF TRANSFER OF MORTGAGE ON BOND.

I, A. B. of _____ in consideration of the sum of _____
paid by _____ of _____ do hereby transfer a cer-
tain _____

X x

tain mortgage (or bond) number _____ made by "The Upper Canada
Trust and Loan Company" to _____ bearing date the
day of _____ for securing the sum of _____ and in-
terest, and all my right, estate and interest in and to the possessions, profits,
calls, and property (*as the case may be*) thereby assigned together with all cove-
nants, and other securities granted or entered into by or on behalf of the said as-
sociation in respect thereof.

Dated this _____ day of _____ in the year of Our Lord

SCHEDULE H.

FORM OF PROXY.

A. B. of _____ one of the Shareholders of "The Upper Canada
Trust and Loan Company" doth hereby appoint C. D. of _____
to be proxy of the said A. B., in his absence, to vote in his name upon any matter
relating to the undertaking proposed at the meeting of the Shareholders of the
Company, to be held on the _____ day of _____ next
in such matter as the said C. D. doth think proper. In witness whereof the said
A. B. doth hereunto set his hand (*or if the Corporation, say the Common Seal of*
the Corporation) the _____ day of _____

SCHEDULE I.

FORM OF CONVICTION.

District }
To wit: }

Be it remembered, that on the _____ day of _____ in the
year of our Lord _____ C. D. and E. F. two of Her
Majesty's Justices of the Peace in and for the District of _____
in Upper Canada (*here describe the offence generally, and the time and place, and*
when and where committed) contrary to the provisions of the Upper Canada
Trust and Loan Company Act, and passed in the year of our Lord one thousand
eight hundred and forty three.

Given under our hands and seals, the day and year first above written.

C, D.
E. F.

C A P.

CAP. LXIV.

An Act to Incorporate the Kingston Mineral Wells Company.

[9th December, 1843.]

WHEREAS certain Mineral Waters have lately been discovered in the neighbourhood of Kingston, in the Midland District of this Province, and the medicinal properties of such waters have been satisfactorily ascertained, and their efficacy in the cure of various complaints and chronic diseases has been fully proved; And whereas great benefit would arise to the public from the erection of Baths and other accommodations for persons desirous of using the said waters, and the several persons hereinafter named are desirous of being formed into an Incorporated Joint Stock Company, to be called The Kingston Mineral Wells Company, with powers to raise the capital, and to do such other acts as are necessary for accomplishing the above purpose and the several other objects connected therewith and hereinafter stated; Be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that James Morton, James Bone, Charles Stuart, John Counter, Robert Aitchison, James McFarlane, and all and every such other person and persons, Body or Bodies Politic or Corporate or Collegiate, and their respective successors, executors, administrators and assigns, or such of them as shall from time to time be possessed of any share or shares in the Undertaking hereby authorized to be carried on, shall be united into a Company according to the powers and authorities hereinafter set forth or referred to, and shall be one Body Politic and Corporate by the name of "The Kingston Mineral Wells Company," and by that name shall have perpetual succession and a Common Seal, with power to break and alter such Seal, and by that name shall sue and be sued, plead and be impleaded, in all Courts, whether of Law or Equity, in this Province.

Preamble.

Proprietors
Incorporated.

II. And be it enacted, that the said Company shall be and they are hereby authorized and empowered to lay out and invest their capital, in the first place, in paying and discharging all costs, charges and expenses incurred in applying for and obtaining this Act, and all other expenses preparatory or relating thereto, and the remainder of such capital, or so much thereof as may from time to time be deemed necessary in the manner and for the purposes hereinafter mentioned,

Capital of the
Company how
to be laid out
and invested.

that

that is to say, in the erecting, fitting up, furnishing, maintaining and carrying on public and private Baths, and other conveniences connected with the use of the Mineral Waters now or at any time belonging to the said Company, and also in the erection and fitting up of houses and other buildings for the reception, accommodation and entertainment of invalids, and any other persons resorting to the said Mineral Wells ; and also in the doing, purchasing or providing whatsoever in the opinion of the Directors of the said Company, for the time being, shall be requisite or expedient for the interests of the said Company.

Company to
acquire and
hold certain
real estate.

III. And be it enacted, that it shall be lawful for the said Company to acquire by purchase, lease, mortgage or otherwise, and to hold either absolutely or conditionally, the property, lands and hereditaments belonging to James Morton, in the County of Frontenac, in the Midland District of the said Province, or any part or parts thereof whereon the said Mineral Waters have been discovered, and to lay out and apply the capital and other property for the time being, of the Company, or any moneys raised by the Company in acquiring by purchase, lease, mortgage or otherwise, such property, lands and hereditaments, or any part or parts thereof ; and that it shall also be lawful for the Company, and they are hereby empowered to acquire by purchase, mortgage or otherwise, and to hold either absolutely or conditionally, any other property, lands and hereditaments in the said County of Frontenac, in the Midland District, in this Province, and to lay out and apply the capital and other property, for the time being, of the Company, or any moneys raised by the Company, in acquiring by purchase, mortgage or otherwise, such property, lands and hereditaments in the said Province : Provided always, that the property, lands and hereditaments hereby authorized to be acquired and held by the said Company shall not exceed one thousand acres.

Power to
lease and
sell
lands.

IV. And be it enacted, that it shall be lawful for the Company, from time to time, to deal with and dispose of all lands acquired and possessed, or held in trust, for the Company, or contracted for, or to which the said Company shall be entitled, or of any part thereof, by sale, exchange, mortgage, lease, or other disposition thereof which they may deem most conducive to the promoting the objects and advantage of the Company ; and the Company shall be, and they are hereby authorized and empowered to lay out and invest their capital and property, for the time being, or any moneys to be raised by them in so dealing and disposing of their lands.

Capital and
number of
shares.

V. And be it enacted, that the capital of the said Company shall be twenty five thousand pounds, and shall be divided into one thousand two-hundred and fifty shares, each, of the amount of twenty pounds ; and such shares shall be numbered in arithmetical progression, beginning with number one, and be respectively distinguished by the numbers affixed to them.

VI.

VI. And be it enacted, that all shares in the Undertaking shall be personal estate, and transmissible as such, and shall not be of the nature of real estate.

Shares to be personal estate.

VII. And be it enacted, that the Company shall keep a book, to be called the "Register Book of Shareholders," and in such book shall be fairly and distinctly entered, from time to time, the names of the several Corporations, and the names and additions of the several persons, being Shareholders of the Company, the number of shares to which such Shareholders shall be respectively entitled, distinguishing each share by its number, and the amount of the subscriptions paid on such shares; and such book shall be authenticated by the Common Seal of the Company being affixed thereto.

Registry of Shareholders.

VIII. And be it enacted, that in addition to the said Register of Shareholders, the Company shall provide a proper book, to be called "The Shareholders' Address Book," in which the Secretary shall, from time to time, enter the places of abode of the several Shareholders of the Company; and every Shareholder, or if such Shareholder be a Corporation, the Clerk or Agent of such Corporation may, at all convenient times, peruse such book, gratis, and may require a copy thereof, or of any part thereof; and for every hundred words so required to be copied, the Secretary may demand a sum not exceeding six pence.

Addresses of Shareholders.

IX. And be it enacted, that on demand of the holder of any share, the Company shall cause a certificate of the proprietorship of such share to be delivered to such Shareholder, and such certificate shall have the Common Seal of the Company affixed thereto, and such certificate shall specify the share or number of shares in the Undertaking to which such Shareholder is entitled, and the same may be according to the form in the Schedule A. to this Act annexed, or to the like effect; and for such certificate the Secretary may demand any sum not exceeding two shillings and six pence.

Certificates of Shares.

X. And be it enacted, that such certificate shall be admitted in all Courts as *primâ facie* evidence of the title of such Shareholder, his executors, administrators, successors, or assigns to the share therein specified; nevertheless, the want of such certificate shall not prevent the holder of any share from disposing thereof.

Certificate to be evidence.

XI. And be it enacted, that if any such certificate be worn out or damaged, then, upon the same being produced at some meeting of the Directors, such Directors may order the same to be cancelled, and thereupon another similar certificate shall be given to the party in whom the property of such certificate, and of the share therein mentioned, shall be at the time vested; or if such certificate be lost or destroyed, then, upon proof thereof, a similar certificate shall be given to the party entitled

Certificate to be renewed when destroyed.

entitled to the certificate so lost or destroyed, and in either case a due entry of the substituted certificate shall be made by the Secretary in the Register of Shareholders; and for every certificate so given or exchanged, the Secretary may demand any sum not exceeding two shillings and six pence.

Transfers of shares to be registered.

XII. And be it enacted, that subject to the regulations herein contained, every Shareholder may sell and transfer his shares, or any part of them, by deed in which the consideration shall be truly stated, and such deed may be according to the form in the Schedule B. to this Act annexed, or to the like effect; and the same (when duly executed) shall be delivered to the Secretary and be kept by him, and the Secretary shall enter a memorial thereof in a book to be called "The Register of Transfers," and shall endorse such entry on the Deed of Transfer, and for every such entry and endorsement the Secretary may demand any sum not exceeding five shillings; and on the request and at the option of the purchaser of any share, a new certificate shall be granted in the manner afore-mentioned, and an endorsement of such transfer shall be made on the certificate of such share and new certificate, and for such endorsement the Secretary may demand any sum not exceeding five shillings, and such endorsement being signed by the Secretary, shall be considered in every respect the same as a new certificate; and until such transfer shall have been so delivered to the Secretary as aforesaid, the seller of such share shall remain liable for all future calls, and the purchaser of the share shall not be entitled to receive any share of the profits of the said undertaking, or to vote in respect of such share.

Transfer not to be made until calls paid.

XIII. And be it enacted, that no Shareholder shall be entitled to transfer any share until he shall have paid all calls, for the time being, due on every share held by him.

Closing of transfer books.

XIV. And be it enacted, that the Directors may close the Register of Transfers for a period not exceeding fourteen days previous to each ordinary meeting, and may fix a day for the closing of the same, of which seven days' notice shall be given by advertisement in some newspaper as after-mentioned; and any transfer made during the time when the books are so closed, shall, as between the Company and the party claiming under the same, but not otherwise, be considered as made subsequently to such ordinary meeting.

Transmission of shares by other means than transfer to be authenticated by a declaration.

XV. And with respect to the registration of shares, the interest in which may become transmitted in consequence of the death, or bankruptcy, or insolvency of any shareholder, or in consequence of the marriage of a female Shareholder, or by any other legal means than by a transfer according to the provisions of this Act; Be it enacted, that no person claiming by virtue of any such transmission, shall
be

be entitled to receive any share of the profits of the said undertaking, nor to vote in respect of any such share as the holder thereof, until such transmission have been authenticated by a declaration in writing as hereinafter mentioned, or in such other manner as the Directors shall require; and every such declaration shall state the manner in which, and the party to whom such share shall have been so transmitted, and shall be made and signed by some credible person before a Justice, or before a Master or Master Extraordinary in the Court of Chancery, and such declaration shall be left with the Secretary, and thereupon he shall enter the name of the person entitled under such transmission in the register-book of Shareholders of the Company whereby such person shall be and become a Shareholder in the said undertaking; and for every such entry the Secretary may demand any sum not exceeding five shillings.

XVI. And be it enacted, that if such transmission be by virtue of the marriage of a female Shareholder, the said declaration shall contain a copy of the register of such marriage, and shall declare the identity of the wife with the holder of such share; and if such transmission have taken place by virtue of any testamentary instrument, or by intestacy, the probate of the will, or letters of administration, or an official extract therefrom, shall, together with such declaration, be produced to the Secretary; and upon such production in either of the cases aforesaid, the Secretary shall make an entry of the declaration in the said register of transfers.

Proof of transmission by marriage, will, &c.

XVII. And be it enacted, that with respect to any share to which several persons may be jointly entitled, all notices directed to be given to the Shareholders shall be given to such of the said persons whose name shall stand first in the register of Shareholders, and notice so given shall be sufficient notice to all the proprietors of such share, unless any such joint proprietor shall, by writing under his hand, request such notice to be given to any other or all such joint proprietors.

Notices to joint proprietors of shares.

XVIII. And be it enacted, that if any money be payable to any Shareholder, being a minor, idiot, or lunatic, the receipt of the guardian of such minor, or the receipt of the committee of such idiot or lunatic, shall be a sufficient discharge to the Company for the same.

Receipts for money payable to minors, &c.

XIX. And be it enacted, that the Company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any of the said shares may be subject, and the receipt of the party in whose name any such share shall stand in the books of the Company, shall from time to time be a sufficient discharge to the Company for any dividend or other sum of money payable in respect of such share; notwithstanding any trusts to which such share may then be subject, and whether or not the Company have had notice of such trust; and

Company not bound to regard trusts.

and the Company shall not be bound to see to the application of the money paid upon such receipt.

Power to make calls.

XX. And be it enacted, that from time to time, the Company may make such calls of money upon the respective Shareholders in respect of the amount of capital, respectively subscribed, or owing by them as they shall think fit, provided that thirty days' notice at the least be given of each call, and that no call exceed the amount of five pounds per share, and that successive calls be made at not less than the interval of three months, and that the aggregate amount of calls made in any one year do not exceed the amount of twelve pounds ten shillings per share, and every Shareholder shall be liable to pay the amount of the call so made in respect of the shares held by him, to the persons and at the times and places from time to time appointed by the Company.

Interest on calls unpaid.

XXI. And be it enacted, that if before, or on the day appointed for payment, any Shareholder do not pay the amount of any call to which he may be liable, then such Shareholder shall be liable to pay interest for the same, at the rate of six pounds per centum, per annum, from the day appointed for the payment thereof to the time of the actual payment.

Payment of subscriptions before call.

XXII. And be it enacted, that the Company may, if they think fit, receive from any of the Shareholders, willing to advance the same, all or any part of the moneys due upon their respective shares beyond the sums actually called for; and upon the principal moneys so paid in advance, or so much thereof as from time to time shall exceed the amount of the calls made upon the shares in respect of which such advance shall have been made, the Company may pay interest at such rate, not exceeding six pounds per centum, per annum, as the Shareholder paying such sum in advance and the Company shall agree upon.

Enforcement of calls by action.

XXIII. And be it enacted, that if at the time appointed by the Company for the payment of any call, the holder of any share fail to pay the amount of such call, the Company may sue such Shareholder for the amount thereof in any court of law or equity having competent jurisdiction, and may recover the same with interest, at the rate of six pounds per centum, per annum, from the day on which such call may have been made payable.

Declaration in action for call.

XXIV. And be it enacted, that in any action to be brought by the Company against any Shareholder to recover any money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the Company to declare that the defendant is a holder of one share or more in the Company (stating the number of shares), and is indebted to the Company in the sum of money to

to which the calls in arrear shall amount in respect of one call or more upon one share or more (stating the number and amount of each of such calls), whereby an action hath accrued to the Company by virtue of this Act.

XXV. And be it enacted, that on the trial of such action, it shall be sufficient to prove, that the defendant, at the time of making such call, was a holder of one share or more in the Company, and that such call was in fact made, and such notice thereof given, as is directed by this Act; and it shall not be necessary to prove the appointment of the Directors who made such call, nor any other matter whatsoever; and thereupon the Company shall be entitled to recover what shall be due upon such call, with interest thereon, unless it shall appear either that any such call exceeds the amount of five pounds per share, or that due notice of such call was not given, or that the interval of three months between two successive calls had not elapsed, or that calls amounting to more than the sum of twelve pounds ten shillings, in one year, had been made.

Matter to be proved in action for calls.

XXVI. And be it enacted, that the production of the Register-Book of Shareholders of the Company shall be *primâ facie* evidence of such defendant being a Shareholder, and of the number and amount of his shares, and of the sums paid in respect thereof.

Proof of proprietorship.

XXVII. And be it enacted, that if the holders of any share fail to pay a call payable by him in respect thereof, together with the interest, if any, that shall have accrued thereon, the Directors, at any time after the expiration of one month from the day appointed for payment of such call, may declare such share forfeited, and that whether the Company have sued for the amount of such call or not.

Forfeiture of shares for non-payment of calls.

XXVIII. And be it enacted, that before declaring any share forfeited, the Directors shall cause notice of such intention to be left at the usual or last known place of abode of the person appearing by the Register-Book of Proprietors to be the Proprietor of such share; and if the Proprietor of any such share be abroad, or if the interest in any such share shall be known by the Directors to have become transmitted otherwise than by transfer, as hereinbefore mentioned, but a declaration of such transmission shall not have been registered as aforesaid, and so the address of the parties to whom the same may have been transmitted shall not be known to the Directors, the Directors shall give public notice of such intention in the Canada Gazette, and also by advertisement in a newspaper as hereinafter provided, and the several notices aforesaid shall be given twenty-one days at least before the Directors shall make such declaration of forfeiture.

Notice of forfeiture to be given before declaration thereof.

XXIX.

Forfeiture to
be confirmed
by a general
meeting.

Sale of for-
feited shares.

Evidence as
to forfeiture of
shares.

No more
shares to be
sold than suffi-
cient for pay-
ment of calls.

On payment
of calls before

XXIX. And be it enacted, that such declaration of forfeiture shall not take effect so as to authorize the sale or other disposition of any share until such declaration have been confirmed at some general meeting of the Company, to be held after the expiration of two months, at the least, from the day on which such notice of intention to make such declaration of forfeiture shall have been given, and it shall be lawful for the Company to confirm such forfeiture at any such meeting, or at any subsequent general meeting, to direct the share so forfeited to be sold or otherwise disposed of; and after such confirmation, the Directors may sell the forfeited share either by public auction or private contract, and if there be more than one such forfeited share, then either separately or together, or in lots, as to them shall seem fit.

XXX. And be it enacted, that a declaration in writing by an officer or servant of the Company, or by some credible person (not interested in the matter,) made before any Justice, or before any Master or Master Extraordinary in the Court of Chancery, that the call in respect of a share was made, and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was declared and confirmed in manner hereinbefore required, shall be sufficient evidence of the facts therein stated; and such declaration, and the receipt of the Secretary of the Company for the price of such share, shall constitute a good title to such share, and thereupon such purchaser shall be deemed the proprietor of such share, discharged from all calls made prior to such purchase; and a certificate of proprietorship shall be delivered to such purchaser, upon his signing the undertaking to hold the said shares so purchased to him as aforesaid, subject to the provisions of this Act, and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to any such sale.

XXXI. And be it enacted, that the Company shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest, and the expenses attending such sale and declaration of forfeiture; and if the money produced by the sale of any such forfeited share be more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and sale thereof, the surplus shall, on demand, be paid to the defaulter, or in default thereof, applied in and towards satisfaction of any calls made thereafter, but prior to such demand being made, as last aforesaid, in respect of the remaining unsold shares of such defaulter.

XXXII. And be it enacted, that if payment of such arrears of calls and interest and expenses be made before any share so forfeited and vested in the Company shall

shall have been sold, such share shall revert to the party to whom the same belonged before such forfeiture, in such manner as if such calls had been duly paid.

sale, forfeited shares to revert.

XXXIII. And be it enacted, that no Shareholder of the Company shall be liable for or charged with the payment of any debt or demand due from the Company beyond the extent of his share in the capital of the Company not then paid up.

Extent of liability of shareholders.

XXXIV. And be it enacted, that if any execution, either at law or in equity, shall have been issued, taken out, or used against the lands, property or effects of the Company, and if there cannot be found sufficient whercon to levy such execution, then such execution may be issued against any of the Shareholders of the Company to the extent of their shares, respectively, in the capital of the Company not then paid up: Provided always, that no such execution shall issue against any Shareholder, except upon an order of the Court in which the action, suit, or other proceeding shall have been brought or instituted, made upon motion in open Court after thirty days' notice in writing to the persons sought to be charged; and upon such motion, such Court may order execution to issue accordingly; and for the purpose of ascertaining the names of the Shareholders and the amount of capital remaining to be paid upon their respective shares, it shall be lawful for any person entitled to any such execution, at all reasonable times, to inspect the Register-Book of Shareholders without fee.

Execution against shareholders to the extent of capital not paid up.

XXXV. And be it enacted, that if by means of any such execution any Shareholder shall have paid any sum of money beyond the amount then due from him in respect of calls already made, and for interest thereon, if any, and all costs and expenses in respect thereof, he shall forthwith be reimbursed such additional sum by the Directors out of the funds of the Company.

Reimbursement.

XXXVI. And be it enacted, that in case the money hereby authorized to be raised shall be found insufficient for the purposes of the Company, it shall be lawful for the Company to borrow on mortgage or bond such sums of money as shall, from time to time, be authorized to be borrowed by an order of a general meeting of the Company, not exceeding in the whole the sum of twenty-five thousand pounds; and for securing the re-payment of the money so borrowed, with interest, to mortgage all or any of the lands and hereditaments, or other property of the Company, and the future calls on the Shareholders of the Company, and to give bonds or mortgages in manner hereinafter mentioned.

Power to borrow money.

XXXVII. And be it enacted, that if after having borrowed any part of the money so authorized to be borrowed on mortgage or bond, the Company pay off the same, it shall be lawful for them again to borrow the amount so paid off, and

Re-borrowing.

so from time to time; but such power of re-borrowing shall not be exercised without the authority of a general meeting of the Company, unless the money be so re-borrowed in order to pay off any existing mortgage or bond.

Rights of
Mortgagees.

XXXVIII. And be it enacted, that the respective mortgagees shall be entitled, one with another, to their respective proportions of the rents, lands and premises comprised in such mortgage, and of the future calls payable by the Shareholders of the Company, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees, respectively, and to be repaid the sums so advanced, with interest, without any preference one above another, or above the bond-creditors of the Company, by reason of priority of the date of any such mortgage, or of the meeting at which the same was authorized, or on any other account whatsoever.

Rights of
Obligees.

XXXIX. And be it enacted, that the respective obligees in such bonds shall proportionally, according to the amount of the moneys secured thereby, be entitled to be paid out of the property or effects of the Company, and of the future calls payable by the Shareholders of the Company, the respective sums in such bonds mentioned, and thereby intended to be secured, without any preference one above another, or above the mortgagees of the Company, by reason of priority of date of any such bond, or of the meeting at which the same was authorized, or otherwise howsoever.

Register of
Mortgages and
Bonds.

XL. And be it enacted, that a Register of mortgages and bonds shall be kept by the Secretary, and within fourteen days after the date of any such mortgage or bond, an entry or memorial, specifying the number and date of such mortgage or bond, and the names of the parties thereto, with their proper additions, shall be made in such Register; and such Register may be perused at all reasonable times by any of the Shareholders, or by any mortgagee or bond creditor of the undertaking, or by any person interested in any such mortgage or bond, without fee or reward.

Transfer of
Mortgages and
Bonds; and
Form.

XLI. And be it enacted, that from time to time any party entitled to any such mortgage or bond, may transfer his right and interest therein to any other person by deed, wherein the consideration shall be truly stated; and every such transfer may be according to the form in the Schedule E. to this Act annexed, or to the like effect.

Entry of
transfers of
Mortgages and
Bonds.

XLII. And be it enacted, that within thirty days after the date of every such transfer, if executed within the Province of Canada, or otherwise, within thirty days after the arrival thereof in the said Province, it shall be produced to the Secretary,

Secretary, and thereupon the Secretary shall cause an entry or memorial thereof to be made, in the same manner as in the case of the original mortgage; and after such entry, every such transfer shall entitle the transferee, his executors, administrators or assigns, to the full benefit of the original mortgage or bond in all respects; and no party having made such transfer shall have power to make void, release or discharge the mortgage or bond so transferred, or any money thereby secured; and for such entry the Secretary may demand a sum not exceeding the amount of two shillings and six pence.

XLIII. And be it enacted, that the interest of the money borrowed upon any such mortgage or bond shall be payable and paid half yearly, to the several parties entitled thereto, and in preference to any dividends payable to the Shareholders of the Company.

Payment of
interest on
loans.

XLIV. And be it enacted, that the Company may, if they think proper, fix a period for the repayment of the principal money so borrowed, with the interest thereof, and in such case the Company shall cause such period to be inserted in the mortgage deed or bond, and upon the expiration of such period, the principal sum, together with the arrears of interest thereon, shall be paid to the party entitled to such mortgage or bond.

Repayment
of money bor-
rowed at a time
fixed.

XLV. And be it enacted, that if no time be fixed in the mortgage deed or bond for the re-payment of the money so borrowed, the party entitled to the mortgage or bond may, at the expiration, or at any time after the expiration of twelve months from the date of such mortgage or bond, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months' previous notice for that purpose, and the Company may, at all times, pay off the money borrowed, or any part thereof, on giving the like notice; and such notice, if given by a mortgagee, or bond-creditor, shall be by writing delivered to the Secretary, and if given by the Company, shall be by writing, given either personally to such mortgagee or bond-creditor, or if such mortgagee or bond-creditor be unknown or cannot be found, such notice shall be given by advertisement in the Canada Gazette, and in some newspaper as after mentioned; and at the expiration of the said notice, when given by the Company, interest shall cease to be payable on the money secured by such mortgage or bond, unless, on demand of such money, the Company fail to pay the same, pursuant to such notice.

Repayment
of money bor-
rowed when no
time fixed.

XLVI. And in order to provide for the recovery of the arrears of interest and costs, or of the principal and interest and costs of any such mortgage or bond, at the respective times at which such interest, or such principal and interest and costs become due; Be it enacted, that if such interest, or any part thereof, shall, for
thirty

For enforcing
payment of in-
terest in arrear.

thirty days after the same shall have become due, and demand thereof shall have been made in writing, remain unpaid, the mortgagee or bond-creditor may either sue for the interest so in arrear, by action of debt in any of the Superior Courts, or he may require the appointment of a Receiver, by an application to be made as hereinafter provided.

For enforcing payment of Principal and Interest.

XLVII. And with respect of such principal money, interest and costs ; Be it enacted, that if such principal money and interest be not paid within two months after the same has become payable, and after demand thereof in writing, the mortgagee or bond-creditor may sue for the same in any of the Superior Courts of Law or Equity, or if his debt amount to the sum of one hundred pounds, he may alone, or if his debt does not amount to the sum of one hundred pounds, he may, in conjunction with other mortgagees or bond-creditors, whose debts being so in arrear after demand as aforesaid, shall, together with his, amount to the sum of two hundred pounds, require the appointment of a Receiver, by an application to be made as hereinafter provided.

Appointment of Receiver.

XLVIII. And be it enacted, that every such application for a Receiver, in the cases aforesaid, shall be made to any one of the Judges of the Courts of Law or Equity in this Province, or to the Judge of the District Court for the Midland District, and on any such application so made, and after hearing the parties, it shall be lawful for such Judge, by order in writing, to appoint some person to receive the whole or a competent part of the sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest, or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the sums aforesaid, be fully paid ; and upon such appointment being made, all such sums of money as aforesaid shall be paid to and received by the person so to be appointed ; and the money so to be received shall be so much money received by or to the use of the party to whom such interest, or such principal and interest, as the case may be, shall be then due, and on whose behalf such Receiver shall have been appointed ; and after such interest and costs, or such principal interest and costs, have been so received, the power of such Receiver shall cease.

Mortgagees not to vote.

XLIX. And be it enacted, that no party shall, in right of any mortgage, be deemed a Shareholder, or be capable of acting or voting as such at any meeting of the Company.

Access to Account Books.

L. And be it enacted, that at all reasonable times the books of account of the Company shall be open to the inspection of the respective mortgagees and bond-creditors thereof, with liberty to take extracts therefrom without fee or reward.

LI

LI. And be it enacted, that it shall be lawful for the Company, with the consent of any extraordinary meeting of the Shareholders, specially convened for that purpose, from time to time to raise, by contribution amongst themselves, or by the admission of other persons as subscribers to the said undertaking, or in part by each of those means, a further sum or further sums of money, not exceeding in the whole the sum of twenty-five thousand pounds, in shares of twenty pounds each, in such manner and upon such terms and conditions, and under such regulations as shall be approved and agreed upon at such meeting; and such shares shall be numbered in regular succession from and in continuation of the numbers affixed to the shares of the Company then already issued, in arithmetical progression, and every such share shall always be distinguished by the number to be appointed to the same.

Power to en-
large Capital.

LII. And be it enacted, that the holders of the said new shares, so long as the deposits and calls paid in respect thereof shall amount to less than the sums called for and payable in respect of the said original shares, shall only be entitled to such an amount of dividend in respect thereof, in case any dividend be then declared and become payable under the provisions of this Act as by the meeting of proprietors authorizing the creation of the new capital, in aid of which such new shares may have been issued, shall be declared and agreed upon.

Owners of
new shares to
be entitled only
to dividend in
respect of the
amount paid
up on their
shares agreed
upon at the
creation of the
New Capital.

LIII. And be it enacted, that the capital so to be raised by the creation of new shares shall be considered as part of the general capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, and interest upon arrears thereof, or the forfeiture of shares on non-payment of calls or otherwise, as if it had been part of the original capital, except as to the time of making calls for such additional capital, and the amount of such calls which, respectively, it shall be lawful for the Company, from time to time, to fix as they shall think fit.

New Capital
to be consider-
ed as part of
the original
Capital and
the shares to
be liable to the
same provi-
sions.

LIV. And be it enacted, that if at the time of any such augmentation of capital taking place by the creation of new shares, the then existing shares of the Capital Stock of the Company be at a premium or of greater actual value than the nominal value thereof, then the sum so to be raised shall be divided into shares of such amounts as will conveniently allow the said sum to be apportioned among the then Shareholders, in proportion to the existing shares held by them, respectively; and such new shares shall be offered to the then Shareholders in the proportion of one for every existing share held by them, respectively; and such offer shall be made by letter, under the hand of the Secretary, given to or sent by post to each Shareholder, or left at his usual or last place of abode; and such new Shares shall vest in and belong to the Shareholders who shall
accept

If old shares
at premium
new shares to
be offered to
original share-
holders.

accept the same and pay the value thereof to the Company at the time, and by the instalments which shall be fixed by the Company; and if any Shareholder fail for one month after such offer of new Shares to accept the same and pay the instalments called for in respect thereof, it shall be lawful for the Company to dispose of such shares to any party willing to become the purchaser thereof, for such sum as the Company can obtain for the same, or in such other manner as may be deemed expedient.

If not at a premium to be issued as Company think fit.

LV. And be it enacted, that if at the time of such augmentation of capital taking place the existing shares of the Capital Stock of the Company be not at a premium, then such new shares may be of such amount, and may be issued in such manner as the Company shall think fit.

Ordinary Meetings to be held yearly.

LVI. And with respect to general meetings of the Company; Be it enacted, that the first general meeting of the Shareholders of the Company shall be held within three months after the passing of this Act; and the future annual general meetings shall be held in the month of February in each year, and the meetings appointed to be held as aforesaid shall be called "ordinary meetings."

Business at ordinary meetings.

LVII. And be it enacted, that no determination or resolution at any ordinary meeting on any matters, except such as are directed by this Act to be transacted at an ordinary meeting, shall be binding upon the Company, unless either the same be confirmed by a subsequent meeting, of which meeting and of which determination or resolution, reasonable notice shall be given by the Secretary of the Company, or unless special notice of such extraordinary matters be given in the advertisement convening such first mentioned ordinary meeting.

Extraordinary meetings.

LVIII. And be it enacted, that every meeting of the Shareholders, other than an ordinary meeting, shall be called an "extraordinary meeting," and such meetings may be convened by the Directors at such times and in such places as they may think fit.

Business at extraordinary meetings.

LIX. And be it enacted, that no extraordinary meeting shall enter upon any business not set forth in the requisition, or in the notice upon which it shall have been convened.

Extraordinary meetings convened by shareholders.

LX. And be it enacted, that it shall be lawful for ten or more Shareholders, holding in the aggregate two hundred shares, to the amount of four thousand pounds, by writing under their hands, at any time to require the Directors to call an extraordinary meeting of the Company; and such requisitions shall fully express the object of the meeting required to be called, and shall be left at the office of

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